

Witness: Serge Kilo Ngabu (Open Session)  
Questioned by Ms. Solano

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1 International Criminal Court

2 Trial Chamber I

3 Situation in the Democratic Republic of the Congo ICC-01/04-01/06

4 Case against Thomas Lubanga Dyilo

5 Hearing - Open Session

6 Thursday, 7 May 2009

7 The hearing starts at 9.32 a.m.

8 COURT USHER: All rise. The International Criminal Court is now  
9 in session. Please be seated.

10 PRESIDING JUDGE FULFORD: Good morning. Mr. Sachdeva, do I take  
11 it from where you're sitting that you're dealing with the bar table  
12 documents?

13 MR. SACHDEVA: Indeed, Mr. President.

14 PRESIDING JUDGE FULFORD: Bad luck. Right. Annex 2. This, I  
15 think, is a document dated the 11th of June, 2003. Could you help,  
16 please, with the following issues: One, exactly how the Prosecution say  
17 that this document is connected with the FPLC; and secondly, whether you  
18 have any particular submissions as to the authenticity of the document  
19 given that there is no official heading, and I think the entirety of the  
20 document is in handwriting.

21 MR. SACHDEVA: Thank you, Mr. President. The connection to the  
22 FPLC, the Prosecution submits, is -- is because at this reunion, at this  
23 meeting of the executive, which would be a political meeting, the  
24 presence of Mr. Floribert Kisembo is indicated. And, therefore, in our  
25 submission, it suggests -- or it demonstrates an alliance, a very strong

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1 connection between the military and the political wing of the UPC.

2 In terms of the -- I understand that there is no stamp and no  
3 seal. Nevertheless, there are signatures, and the signature of  
4 Mr. Kitembo is indicated. And in that regard, I would note that the  
5 Defence have themselves tendered a document signed by Mr. Kitembo. And  
6 that is, if I recall correctly, Evidence 52. And upon a superficial  
7 comparison, it appears to be the same. So in that respect, I would submit  
8 that there is an indicia of reliability for this document.

9 PRESIDING JUDGE FULFORD: Thank you very much.

10 Document 3 doesn't appear to pose any problems.

11 Document 4 is a letter from the UPC dated the 5th of June, 2003.  
12 There is a decree referred to. And the question I have, Mr. Sachdeva, is  
13 whether that decree is in the material that is otherwise available to the  
14 Chamber.

15 MR. SACHDEVA: Mr. President, in fact the -- the document I was  
16 referring to in response to the last document is indeed the one that was  
17 tendered by the -- by the Defence as Evidence 52. In other words, the  
18 document signed by Mr. Kitembo --

19 PRESIDING JUDGE FULFORD: Right.

20 MR. SACHDEVA: -- regarding the demobilisation decree, order,  
21 that is in evidence.

22 PRESIDING JUDGE FULFORD: That is in evidence.

23 MR. SACHDEVA: Yes.

24 PRESIDING JUDGE FULFORD: Right. Thank you. Is there a document  
25 number for it?

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1           MR. SACHDEVA: The -- as far as I recall, the evidence number is  
2     52 and it was tendered through witness 41. The document number that the  
3     Prosecution has is DRC-OTP-0014-0254. That's the ERN number.

4           PRESIDING JUDGE FULFORD: Thank you very much. That's very  
5     helpful.

6           Document 5, a UPC letter dated the 11th of August, 2003, from the  
7     national defence secretary, no signature, and it appears to be crossed  
8     through. Do you have any submissions bearing those two matters in mind  
9     as to the -- the weight that should be attached to this document given  
10    the absence of a signature and the fact that it appears to be crossed  
11    through?

12          MR. SACHDEVA: In terms of the weight, Mr. President, the -- the  
13    content -- in other words, the inclusion of the G1, G3, G4, G5 -- I would  
14    submit that Witness 17 has given evidence of similar ilk. And indeed,  
15    there will be other witnesses that would describe the structure of the  
16    UPC military. Of course, your Honour has asked about the weight; but in  
17    terms of the admission, the absence of a signature would not, in our  
18    submission, preclude this document from being admitted into evidence.  
19    There is a stamp of the UPC. The letterhead appears to be the same as  
20    others that have been -- have not been objected to by the Defence. And  
21    therefore, in our submission, the document is relevant and should be  
22    admitted.

23          PRESIDING JUDGE FULFORD: Right. No. That's very clear.

24          Annex 6. This is handwritten. There are no official headers.  
25    How, in a sentence or two, do the Prosecution link this document

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1       evidentially with the charges that the accused faces?

2               MR. SACHDEVA: Mr. President, this is, in my submission, an easy  
3       one to deal with. Upon reflection, the Prosecution is going to withdraw  
4       this document.

5               PRESIDING JUDGE FULFORD: I thought you were about to say that  
6       I'd missed some self-evident point, Mr. Sachdeva. I'm very glad that it  
7       was a more polite response than that.

8               Good. Document 7. Again, in a sentence or two, how does this  
9       letter dated the 1st of November, 2003, relate to the charges?

10              MR. SACHDEVA: Mr. President, this -- the document demonstrates  
11       again the organisation of the FPLC. I am cognisant of the fact that it  
12       is just outside the indictment period. However, in our submission, this  
13       would demonstrate the continuation of a policy that had been in existence  
14       during the indictment period; and therefore, in our submission, it is  
15       relevant. And indeed, the signature again of Mr. Kisémbu is contained on  
16       the document. And in our submission, it is the same as those documents  
17       that have already been entered into evidence.

18              PRESIDING JUDGE FULFORD: All right. No, that's clear.

19              Really a very similar question for document 8.

20              MR. SACHDEVA: Mr. President, excuse me. I -- this -- the  
21       response to this document would be the same as the previous one; indeed,  
22       that it is outside -- technically outside the indictment period.  
23       However, the same principles apply in my submission.

24              PRESIDING JUDGE FULFORD: Fine. So like consideration.

25              Nine. This is the FPLC declaration dated the 6th of December,

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1       2003. Again, in a sentence or two, the relevance of this to the charges  
2       in the Prosecution's submission, Mr. Sachdeva?

3               MR. SACHDEVA: Just one moment, Mr. President.

4               PRESIDING JUDGE FULFORD: Most certainly. You must really take  
5       your time with this.

6               MR. SACHDEVA: Mr. President, the Prosecution submits that the --  
7       in the content, the inclusion of Mr. Thomas Lubanga as the president of  
8       autre l'armee FPLC -- in other words, our army of the FPLC -- purportedly  
9       signed by Bosco Ntaganda, again demonstrates the link between the  
10      military and the political wings of the UPC and that Mr. Lubanga was,  
11      indeed, in charge of the military. Again, it is post the indictment  
12      period; nevertheless, in our submission, demonstrates the continuation of  
13      what was in existence.

14              PRESIDING JUDGE FULFORD: Annex 10. Although the Defence  
15      reserves the right to challenge its authenticity, and we'll wait to see  
16      how that develops, we don't have any specific questions on that Annex.

17              Annex 11 is a handwritten FPLC security services report. The  
18      author, I think, is, as far as the Bench is concerned, an unknown member  
19      of the security service. And the document is handwritten. Is there any  
20      extraneous evidence as to the context in which this document came into  
21      being and the method by which the information within the report was  
22      generated? It really put it more -- put it more simply, apart from what  
23      is said in the document, in evidence is there anything else about it that  
24      would assist the Chamber?

25              MR. SACHDEVA: At this stage, in my recollection, no. However,

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1       Witness 55 indeed was in a position -- in our submission, will be in a  
2       position to comment upon the form of such documents and whether these  
3       documents have been routinely prepared. I am cognisant of the fact that  
4       this is again a post-indictment period. Nevertheless, I would ask, with  
5       leave of the Chamber, to first determine the answers from Witness 55  
6       before making a decision, Mr. President.

7               PRESIDING JUDGE FULFORD: So you would say put this one on  
8       hold and wait to see how matters develop with Witness 55.

9               MR. SACHDEVA: Precisely, Mr. President.

10              PRESIDING JUDGE FULFORD: Certainly. All right.

11              Annex 12, handwritten FPLC situation report, dated the 10th of  
12       October, 2002. Handwritten again, I think, without official headers.  
13       Really, again, the same -- the same question, Mr. Sachdeva. Is there any,  
14       as it were, surrounding evidence concerning this document that would  
15       assist us in relation to its reliability, et cetera?

16              MR. SACHDEVA: May I have a moment to find it, Mr. President?

17              The -- my response, Mr. President, is the same as the last  
18       document. In fact, my response for the last document was in regard to  
19       this present document. There was a mistake on my part. However, upon  
20       reflection, the response -- the substance of the response is similar.

21              PRESIDING JUDGE FULFORD: Do you amended your response to  
22       document 11, or is, in fact, your response to 11 and 12 the same? And take  
23       what time you need, Mr. Sachdeva.

24              MR. SACHDEVA: In fact, Mr. President, the response to the  
25       previous document is, in my view, a stronger one; and that is, that this

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1 document was produced -- it seems to me, to have been produced within  
2 the indictment period. And a witness is coming to testify who, in our  
3 submission, held -- who was in that department of the UPC.

4 PRESIDING JUDGE FULFORD: And is that Witness 55?

5 MR. SACHDEVA: Indeed.

6 PRESIDING JUDGE FULFORD: So Witness 55 for both, you'd put Annex  
7 12 perhaps on hold to see how matters develop. For Annex 11, you say,  
8 because it's within the period, the threshold is crossed without more ado;  
9 is that right?

10 MR. SACHDEVA: Yes, Mr. President.

11 PRESIDING JUDGE FULFORD: Fine. Just a pause, Mr. Sachdeva. The  
12 Court Officer has rightly brought to my attention that we're dealing with  
13 this in open session. Any difficulties with that?

14 MR. SACHDEVA: At this stage, no. However, if I need to, I would  
15 ask leave to move into closed session.

16 PRESIDING JUDGE FULFORD: Do. Yes. If there is -- at the moment, we're  
17 dealing with it in a fairly general way, but if anything causes you concern,  
18 then of course make an application for us to move into private session.

19 MR. SACHDEVA: Yes.

20 PRESIDING JUDGE FULFORD: Annex 13, no apparent difficulty. No  
21 apparent difficulty with Annex 14. Annex 15, a document dated the 2nd of  
22 March, 2003, which is an agreement. No official header. There is an  
23 apparent signature that can be read.

24 The question really that I ask is, is there any additional  
25 evidence that touches on this document and particularly the context in

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1       which it was signed?

2               MR. SACHDEVA: Mr. President, the Prosecution has submitted this  
3       document because, in our submission, it again demonstrates the link  
4       between the military and the political wing of the UPC. One has  
5       purportedly Mr. Kitembo signing on behalf of the UPC, and, in our  
6       submission, that evidence -- there is evidence of that, thus far, and there  
7       will be, in our submission. However, in respect to the precise content  
8       contained in the subparagraphs, in my submission, there has not been  
9       evidence on that thus far.

10              PRESIDING JUDGE FULFORD: Right. You're saying you don't  
11       anticipate any particular difficulty as a result?

12              MR. SACHDEVA: Yes, Mr. President.

13              PRESIDING JUDGE FULFORD: Right. All right.

14              Sixteen, no difficulty. Seventeen, a letter dated the 12th of  
15       July, 2003, addressed to General Thonier. Is there any material on the  
16       relationship between the representative who seemingly signed on behalf of  
17       the accused and the accused himself? Is there any extraneous evidence on  
18       that issue?

19              MR. SACHDEVA: Mr. President, might I have a moment?

20              PRESIDING JUDGE FULFORD: Certainly.

21              MR. SACHDEVA: Mr. President, at this stage, the answer is no.  
22       However, I would ask if -- if I do have further information, could I come  
23       back to the Chamber?

24              PRESIDING JUDGE FULFORD: Absolutely. How long would you like,  
25       Mr. Sachdeva, in order to return with any further information?



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1 MR. SACHDEVA: By the end of the day should be sufficient,  
2 Mr. President.

3 PRESIDING JUDGE FULFORD: Certainly. Yes. Absolutely.

4 Eighteen is slightly problematic in this sense: In that the  
5 Prosecution has suggested thus far that the author is somebody by the  
6 name of A. Babitu. However, the letter itself is signed by a Richard  
7 Lonema. And there is reference to a separate annex, but the annex hasn't  
8 been attached. So the query I have, Mr. Sachdeva, is whether by  
9 oversight we don't have all of the documentation which we should have.

10 MR. SACHDEVA: Again, Mr. President, I would ask leave to check  
11 that. I suspect this is what we have, but I would like to check that and  
12 come back to the Chamber.

13 PRESIDING JUDGE FULFORD: No. Absolutely do. The reason why I  
14 wondered whether there had been an oversight is founded on the  
15 suggestion, as I understand it, that the Prosecution make that the author  
16 is A. Babitu, and I don't think that individual's name appears on the --  
17 on the single-page letter that we have, which -- which made me wonder  
18 whether someone within the OTP had seen something which we haven't seen  
19 in this document.

20 MR. SACHDEVA: Indeed. It might be an oversight, Mr. President.  
21 I would again come back to the Chamber on that.

22 PRESIDING JUDGE FULFORD: Absolutely. No problem.

23 No difficulty seemingly with 19, 20, 21, 22, 23, 24, 25.

24 Twenty-six is a UPC letter dated the 20th of December. The  
25 Prosecution submit the relevance is that it throws light on the UPC

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1 structure. Could you develop that in a sentence or two, Mr. Sachdeva, so  
2 we can understand slightly more precisely how it is that the Prosecution  
3 says this assists on the UPC structure issue.

4 MR. SACHDEVA: Mr. President, this document is an appointment  
5 notification for someone to be employed in the UPC, and it has been sent  
6 and relayed for the president of the UPC. And at that time, Mr. Lubanga  
7 was indeed the President of the UPC; and therefore, it demonstrates, in  
8 our submission, an efficient structure, an efficient organisation within  
9 the UPC, that there were -- there was this system of appointments and  
10 promotions, and then such forth.

11 PRESIDING JUDGE FULFORD: That's very clear. Thank you.

12 Twenty-seven, a letter dated the 6th of June from J. Lomondo.  
13 Is there -- yes. I think I will say it differently.

14 Just in heading form, are you able to summarise -- maybe you want  
15 to come back on this, I don't know, but are you able to summarise the  
16 extraneous evidence on the relationship between the author and the  
17 accused so as to, as it were, establish the link between the author of  
18 the letter and Thomas Lubanga?

19 MR. SACHDEVA: Mr. President, the author at the time of  
20 production of this document was the -- the governor of Ituri and was in  
21 control of Bunia. And there has been evidence that when the UPC came to  
22 Bunia in August 2002, obviously Mr. Lomondo was exiled; and therefore, in  
23 that respect, there is evidence of that connection.

24 The other thing I would say in respect to this document,  
25 Mr. President, is the content regarding the existence of child soldiers

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1 or the attempt to recruit child soldiers by Mr. Lubanga at that time  
2 period. Similar evidence has been elicited in this trial that there were  
3 indeed child soldiers within the UPC or indeed within the movement that  
4 became the UPC at that time.

5 And Mr. President, if I may for the following three documents,  
6 in terms of indicia of reliability, they all purport to come from the  
7 same source. They do have a stamp and they do have a signature and a  
8 heading, indeed. And in my -- in our submission, these are further indicia  
9 of reliability.

10 PRESIDING JUDGE FULFORD: All right. That -- that -- I think, it  
11 covers, then, 27, 28, 29 and 30, doesn't it?

12 MR. SACHDEVA: Yes, Mr. President.

13 PRESIDING JUDGE FULFORD: Am I right in understanding that from  
14 the Prosecution's point of view, although the content differs, the  
15 essential issue is the same?

16 MR. SACHDEVA: In terms of the indicia of reliability, yes.  
17 Nevertheless, the -- the first document - that would be Annex 27 - in the  
18 Prosecution's submission, is of a more critical nature.

19 PRESIDING JUDGE FULFORD: Thirty-one is a letter from C. Ondia, if  
20 that's pronounced correctly, dated the 4th of February, 2004. The  
21 Prosecution say that it goes to the link between the UPC and the FPLC.  
22 Just in a sentence or two, Mr. Sachdeva, how does the Prosecution  
23 submit that that works, as it were?

24 MR. SACHDEVA: Mr. President --

25 PRESIDING JUDGE FULFORD: Oh, is it 2003? It's 2003. Thank you.

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1 Judge Odio Benito reminds me I got the date wrong.

2 MR. SACHDEVA: Because at the bottom of the document, the chef  
3 d'etat-major, the Chief of Staff of the UPC, is copied; and therefore, in  
4 our submission, again demonstrates the alliance, the -- yeah, the alliance  
5 between the UPC and the FPLC.

6 PRESIDING JUDGE FULFORD: That's very helpful. That had escaped  
7 my attention, and one has to read the small print for that.

8 I think the same applies then for Annex 33, doesn't it? Oh, no.  
9 No, it doesn't. I'm sorry. It doesn't apply to 33, or does it? There is  
10 a "cc" at the bottom of 33. Yes, I think it does apply. No?

11 MR. SACHDEVA: For 33, Mr. President, the Prosecution submits  
12 that this demonstrates the structure of the UPC.

13 PRESIDING JUDGE FULFORD: Right. So this isn't -- this isn't a  
14 linked document, it's a structure document.

15 MR. SACHDEVA: Indeed, Mr. President.

16 PRESIDING JUDGE FULFORD: Right. Okay. Thirty-four. Although  
17 the Defence has reserved the right to challenge authenticity, we don't  
18 have any questions at this stage.

19 Thirty-five, there don't appear to be any difficulties at all.

20 Thirty-six, a political declaration dated the 3rd of December,  
21 2003. Is there any extraneous evidence as to the context in which the  
22 declaration was made?

23 MR. SACHDEVA: Mr. President, I'm sorry. Mr. President, the --  
24 the Prosecution understands that the background to this document, the  
25 background to the information is the departure of Mr. Kisembo at the end

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1 of 2003 and his attempts to become president of the UPC. And there has  
2 been some evidence of that thus far in the trial.

3 The Prosecution has suggested that this document demonstrates,  
4 nevertheless, that Mr. Lubanga -- demonstrates Mr. Lubanga's role in the  
5 UPC. Yes, it is outside the indictment period, but again, the same  
6 argument applies, Mr. President, that it demonstrates a continuation of  
7 what was indeed in existence during the indictment period.

8 PRESIDING JUDGE FULFORD: All right. Fine.

9 Thirty-seven, no difficulties. Thirty-eight no difficulties.  
10 Thirty-nine, a UPC letter dated the 17th of December, 2002. It's from the  
11 president and the secretary of a particular organisation. It's said that  
12 this tends to establish Thomas Lubanga's authority within the UPC. In a  
13 sentence or two, can you provide us with more detailed reasons as to why  
14 this document may assist in this trial, Mr. Sachdeva?

15 MR. SACHDEVA: Mr. President, because at the top of the document where it  
16 says in French, copie pour l'information, it includes the -- at the top,  
17 it says "the President --" "His Excellency, the President of the UPC" and -  
18 - and "De la Charge de la Defence," in charge of the defence. And in our  
19 submission, this refers to Mr. Lubanga -- again, demonstrating that Mr.  
20 Lubanga was the number one person in the UPC. Again, this is outside the  
21 indictment period, but similar arguments apply, Mr. President.

22 PRESIDING JUDGE FULFORD: I see. So it's not so much really for  
23 the particular content of the document; it is more that it tends to  
24 indicate the important role in the Prosecution's submission that the  
25 accused held.

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1 MR. SACHDEVA: Indeed, Mr. President.

2 PRESIDING JUDGE FULFORD: Right. That's very clear. Forty and 41 and 42,  
3 no apparent difficulties. Forty-three is a UPC statute dated the 15th of  
4 September -- 15th of September, 2000. It's said that this relates to the  
5 accused's role in the formation of the UPC.

6 A particular point made by counsel on behalf of the accused is  
7 that it doesn't constitute the best available evidence since it's  
8 unsigned, and signed versions of the same document are available. What's  
9 the Prosecution's submission in relation to that, Mr. Sachdeva?

10 MR. SACHDEVA: Indeed, Mr. President. In fact, I had in my notes  
11 that this was to be withdrawn because a signed copy is in evidence.

12 PRESIDING JUDGE FULFORD: Right. Good. Forty-four, a UPC letter  
13 dated the 8th of January, 2003. Again, this is an authority document.  
14 Do we know what was in the letter of the 17th of December, 2002, to which  
15 this letter is a response?

16 MR. SACHDEVA: Mr. President, at this stage, no. Might I come  
17 back to the Chamber on that?

18 PRESIDING JUDGE FULFORD: If it, in fact, is in your possession,  
19 could you indicate by the end of the day?

20 MR. SACHDEVA: Yes, Mr. President.

21 PRESIDING JUDGE FULFORD: And am I right in understanding that  
22 this is, again, isn't so much the content of the document, more that it  
23 tends to position the accused?

24 MR. SACHDEVA: Yes, Mr. President.

25 PRESIDING JUDGE FULFORD: Thank you. Forty-five, a UPC letter

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1       dated the 24th of December, 2002. The Prosecution say this deals with  
2       the link between the UPC and the FPLC. Just quickly, how -- how do you  
3       put the argument in that regard, Mr. Sachdeva? What is it particularly  
4       about this that tends to reveal the link?

5               MR. SACHDEVA: Mr. President, because the -- the signatories at  
6       the bottom, one of them on the left is a political representative, and on  
7       the right the person is a sector commander within the UPC/FPLC.

8               PRESIDING JUDGE FULFORD: Okay. All right. Yes, that's clear.  
9       Forty-six I think is an identical document, isn't it?

10              MR. SACHDEVA: Yes, Mr. President.

11              PRESIDING JUDGE FULFORD: Right. So that's just a piece of  
12       repetition; is that right?

13              MR. SACHDEVA: Yes.

14              PRESIDING JUDGE FULFORD: All right. Forty-seven, a letter dated  
15       the 8th of January. Just give me a moment.

16       Now, again, the Prosecution say that this tends to show the  
17       authority of the accused. This is addressed to the president. And is it  
18       the fact that the communication is directed to him, or is it the content  
19       of the document or both that you seek to rely on?

20              MR. SACHDEVA: (Microphone not activated)

21              PRESIDING JUDGE FULFORD: No. Certainly. Take your time.

22              MR. SACHDEVA: Mr. President, I can't locate it, but I can recall  
23       that this, indeed, was simply the form of the document that  
24       refers to Lubanga's authority.

25              PRESIDING JUDGE FULFORD: Right. This is -- just to help you remember, this

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1 is the one that is signed by 26 agents of a particular territory. It's  
2 in handwriting and covers two or three pages.

3 MR. SACHDEVA: Indeed.

4 PRESIDING JUDGE FULFORD: Sorry. It's not in handwriting; it's  
5 typed, but there are handwritten signatures at the end of 26 people.

6 All right. So as you recall, more the fact that it's addressed  
7 to the accused rather than the content of the document.

8 MR. SACHDEVA: Yes, Mr. President.

9 PRESIDING JUDGE FULFORD: All right. Forty-eight, 16th of  
10 September -- 16th of December, 2002, UPC letter. This is said to help to  
11 establish the link between the UPC and the FPLC. Again, I imagine it's  
12 in the detail. What particular detail do you rely on, Mr. Sachdeva, for  
13 that?

14 MR. SACHDEVA: Thank you for your indulgence, Mr. President.

15 The -- in the second paragraph, there is a reference to the FPLC,  
16 and this document -- yes. This document demonstrates that an issue such  
17 as the -- if my French is correct, the theft of a motorbike by someone  
18 from the FPLC has been relayed to the president demonstrates, in our  
19 submission, that no matter how trivial, matters would be sent to the  
20 president and, therefore, demonstrates the overall authority of the  
21 accused.

22 PRESIDING JUDGE FULFORD: Very clear. Forty-nine, no apparent  
23 difficulties.

24 Fifty is, in fact, an FPLC letter. I think in your filing the  
25 Prosecution has referred to this as a UPC letter, but that doesn't



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1       signify the -- the relevance is said to be the link between the UPC and  
2       the FPLC. Again, are you able to help in a sentence or two,  
3       Mr. Sachdeva, as to how you say this document tends to establish that  
4       relationship?

5               MR. SACHDEVA: Mr. President, the -- as the Chamber has  
6       indicated, it is signed by Mr. Kisémbu, Chief of Staff of the -- the  
7       stamp contains the name Mr. Kisémbu, and he was obviously part of the  
8       military. And copies have been transmitted to the secretaries within the  
9       UPC and therefore demonstrates, in our submission, the link between the  
10      military and the political wing of the UPC.

11             Mr. President, the -- can I just ask the annex number again? Is  
12      it DRC-0091-0769 that the Chamber is asking questions on? I apologise.

13             Yes. Thank you.

14             PRESIDING JUDGE FULFORD: (Microphone not activated) 778. Annex  
15      51.

16             MR. SACHDEVA: Precisely. And in fact, Mr. President, the -- the  
17      request for provisions, one can see at the back of the page has gone all  
18      the way up to the president.

19             PRESIDING JUDGE FULFORD: Yes. Fifty-two is a document entitled  
20      "The Pacification of Ituri." It's said that this relates to the UPC's  
21      objectives, structure and organisation. It's dated the 26th of  
22      September, 2002.

23             Linked to the charges, Mr. Sachdeva?

24             MR. SACHDEVA: Mr. President, the document provides contextual  
25      and background evidence to the charges, evidence which has been elicited

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1       thus far in the trial.

2       PRESIDING JUDGE FULFORD: Fine. Fifty-three is, I think, a  
3       handwritten exam paper dated the 9th of December, 2002, signed by Falin or  
4       Faslin or Palin, something like that. It's said this tends to establish  
5       the link between the UPC and the FPLC. There are no official markings on  
6       the document. Can you provide any further information at all about it,  
7       Mr. Sachdeva? It's 0092-704.

8               MR. SACHDEVA: Mr. President, the -- under point B of the  
9       document entitled -- as I understand it, for the objectives, there is  
10      the -- the second point, subpoint, the document speaks on the third line  
11      about the UPC's army being the FPLC.

12             PRESIDING JUDGE FULFORD: But do we know anything about the  
13      author of this or the context in which it came into existence?

14             MR. SACHDEVA: Mr. President, the author, no. However, it is our  
15      understanding that the material was received from a very high ranking --  
16      well, was obtained from a very high-ranking member of the UPC at the  
17      time; and therefore, in our submission, that might be an indicia of --

18             PRESIDING JUDGE FULFORD: (Overlapping speakers) Sorry to  
19      interrupt you. Is there any evidence that it was received from a  
20      high-ranking official? Do you want to come back on this document?

21             MR. SACHDEVA: There's no evidence of that. However, in the  
22      Prosecution's application for the materials to be admitted, and indeed in  
23      the annex, it is indicated that this -- this document was received or was  
24      obtained through the search and seizure. And the search and seizure was  
25      conducted over --

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1                   PRESIDING JUDGE FULFORD: Yes, yes --

2                   MR. SACHDEVA: -- residence --

3                   PRESIDING JUDGE FULFORD: Absolutely. Yes, yes. You needn't go  
4 into the -- so you would say the fact that it's found at that address of  
5 a high-ranking individual is in itself sufficient given what we see in  
6 the particular section that you've just taken us to?

7                   MR. SACHDEVA: Indeed. It's an indicia of reliability, in our  
8 submission.

9                   PRESIDING JUDGE FULFORD: It does appear to be somebody's  
10 examination test, though, doesn't it?

11                  MR. SACHDEVA: Mr. President, it does appear to be that. And of  
12 course, the relevance, in our submission, is the connection between the  
13 UPC and the FPLC. And there are materials in evidence; there is viva  
14 voce evidence of that. Thus for this document, while the Prosecution  
15 would want the document to be admitted, we're extremely -- it would be  
16 fine if the document was put on hold and assessed at the end of the case,  
17 Mr. President.

18                  PRESIDING JUDGE FULFORD: I mean, I think I would have been  
19 rather surprised when, doing my GCSEs, Mr. Sachdeva, if I'd been informed  
20 that they might end up as part of the evidence in an international  
21 criminal trial. I think we will put this document on hold. And if you  
22 want to renew your application in relation to it at a later stage, you  
23 can; but I think an unknown person's examination test isn't the strongest  
24 of your applications so far. All right.

25                  MR. SACHDEVA: Yes, Mr. President.

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1                   PRESIDING JUDGE FULFORD: All right. Fifty-four no problem.

2                   Fifty-five no problem.

3                   Fifty-six, a speech of the national secretary for pacification,  
4                   signed by Tinanzabo. Can you provide a little bit more detail as to the  
5                   context of this as is established by other evidence in the case, together  
6                   with its relevance, which is said to be the UPC and FPLC link?

7                   MR. SACHDEVA: Mr. President, might I come back on this document?  
8                   Thank you.

9                   PRESIDING JUDGE FULFORD: Absolutely. Fifty-seven, no  
10                  difficulties apparently.

11                  Fifty-eight is a UPC letter dated the 13th of December, 2003.  
12                  It's from a D. Lambi Longo to a D. Litsha, and various other people. It  
13                  has a UPC header. It is said to relate to the accused's authority within  
14                  the UPC; but if I'm right, Mr. Sachdeva, I don't think it refers to the  
15                  accused himself. So I'd be grateful for your assistance as to how  
16                  it's said this document will assist.

17                  MR. SACHDEVA: Mr. President, it does not refer to the accused by  
18                  name. However, by the stamp at the bottom, it does indicate that it is  
19                  for the president.

20                  PRESIDING JUDGE FULFORD: Oh, I see. So it's the stamp that  
21                  signifies here.

22                  MR. SACHDEVA: Yes, Mr. President.

23                  PRESIDING JUDGE FULFORD: Good. Well, I hadn't -- hadn't  
24                  appreciated that. That makes your position clear. And in fact, at the  
25                  top, yes, it is from the Presidency, and it's headed the Cabinet of the

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1 President as well, as I understand it.

2 All right.

3 MR. SACHDEVA: And indeed, Mr. President -- and in fact, I had  
4 neglected to mention that, but many of these documents contain that  
5 similar heading, the President and the Cabinet of the President.

6 PRESIDING JUDGE FULFORD: Yes. So you would say, wherever  
7 that appears, that that's something we should have in mind in this  
8 context.

9 MR. SACHDEVA: Absolutely, Mr. President.

10 PRESIDING JUDGE FULFORD: Thank you. Fifty-nine, no apparent  
11 difficulties.

12 Sixty, sixty-one, sixty-two, no difficulties.

13 Sixty-three. This is a UPC report I think by the accused, it is  
14 said -- indeed, seemingly bearing his name at the end -- responding to a  
15 2003 report accusing the UPC and the RP of serious human rights  
16 violations. I don't think to date, Mr. Sachdeva, the Prosecution have  
17 actually set out as you have with other documents what the suggested  
18 relevance of the charges is in relation to this document. So could you do  
19 that in a few sentences?

20 MR. SACHDEVA: Yes, Mr. President. This document demonstrates  
21 that there is -- there was a mechanism for Mr. Lubanga to become aware of  
22 crimes committed within the area of responsibility of the UPC; that  
23 Mr. Lubanga was, indeed, the first point of call for complaints. And in  
24 that respect, it demonstrates Mr. Lubanga's control, authority and  
25 functioning, and the material ability to perhaps take measures.

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1                   PRESIDING JUDGE FULFORD: Right. So it's not so much the  
2 particular issue he's addressing, it's the fact that he's addressing it  
3 at all.

4                   MR. SACHDEVA: Indeed. Nevertheless, the fact that the issues  
5 relate to human rights violations, in our submission, are important.

6                   PRESIDING JUDGE FULFORD: Has significance. All right. Sixty-four and  
7 65, no apparent difficulties.

8                   Sixty-six, a 24th of October letter. It's said that this relates  
9 to UPC structure, Rafiki's official position and communication links  
10 between the UPC and the FPLC.

11                   Assistance would be helpful as to how this assists with  
12 Mr. Rafiki, and generally the UPC structure and the links between the UPC  
13 and the FPLC.

14                   MR. SACHDEVA: In respect of the link between the UPC and the FPLC, at  
15 the bottom left-hand corner, at the "cc" -- at the "cc's" one has the  
16 President of the UPC and under that the chef d'etat-major of the FPLC;  
17 and therefore, both the president and his Chief of Staff are  
18 copied on this document.

19                   Mr. President, the -- the person who has signed the document  
20 is -- is the name of -- is another name of Mr. Rafiki. Now, I can't --

21                   PRESIDING JUDGE FULFORD: Do we have evidence of that?

22                   MR. SACHDEVA: I was just about to inform the Court that I can't  
23 recall if there is evidence. Nevertheless, this can be a document to be  
24 shown to other witnesses that hopefully will be able to establish that.

25                   PRESIDING JUDGE FULFORD: Right. So at the moment, we'd need to

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1 look at the first issues, and it may be there will be an additional  
2 ingredient that will come later depending on the answers of witnesses to  
3 come.

4 MR. SACHDEVA: Precisely. Precisely.

5 PRESIDING JUDGE FULFORD: That's very helpful. Sixty-seven is a  
6 declaration. It's said that this is again UPC structure and Mr. Rafiki,  
7 and I suspect very similar issues relate to this document, don't they,  
8 Mr. Sachdeva?

9 MR. SACHDEVA: Indeed, Mr. President.

10 PRESIDING JUDGE FULFORD: Well, unless there's anything else you  
11 want to say on that. 68 is an -- I think again Prosecution have referred  
12 to this as an FPL -- as a UPC letter. In fact, I think it's an FPLC  
13 letter; but again, that's of no moment.

14 Unsigned. And it's said that it establishes the link between the  
15 UPC and the FPLC. And I imagine, Mr. Sachdeva, you say that it's -- it's  
16 addressed to the -- to the UPC and it's from the FPLC. Is that how the  
17 argument's put?

18 MR. SACHDEVA: Absolutely, Mr. President.

19 PRESIDING JUDGE FULFORD: All right. Well, unless there's  
20 anything else that needs to be said on that. Sixty-nine is a monthly  
21 report of bureau 5. It's from a particular individual to the chief of  
22 the EMG FPLC. It appears to concern the state of mind of the troops, the  
23 staff and the population.

24 Justification for it is the FPLC structure. And a sentence or two  
25 on that, please, Mr. Sachdeva, so we can understand how this is put.

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1           MR. SACHDEVA: This document is signed by a person who was within  
2     the main staff of the UPC/FPLC, and there has been evidence of this  
3     person's position from Witness 17. And it is -- it appears to be a  
4     report, a comprehensive report regarding various matters within the FPLC;  
5     and therefore, in our submission, the fact that such reporting was  
6     conducted demonstrates an efficient military hierarchy, an efficient  
7     military structure. And therefore, it goes to knowledge as well,  
8     Mr. President.

9           PRESIDING JUDGE FULFORD: Very clear. Seventy, which is another  
10    "Rafiki" document, I suspect the same points apply as the ones we dealt  
11    with a moment ago; is -- is that right?

12          MR. SACHDEVA: Absolutely.

13          PRESIDING JUDGE FULFORD: (Microphone not activated). Sorry.  
14    Seventy-one and seventy-two, no apparent difficulties.

15          Seventy-three, a UPC letter dated the 12th of February, 2003. By  
16    the by, if you have a more legible copy of this, in due course could one  
17    be submitted to the Chamber? It was quite difficult to read this one.

18          MR. SACHDEVA: Yes, Mr. President. We had the same problem. I  
19    do have -- I will provide one slightly better.

20          PRESIDING JUDGE FULFORD: Could you in due course?

21          MR. SACHDEVA: Yes.

22          PRESIDING JUDGE FULFORD: Thank you. It's said that this has a  
23    tendency to reveal the accused's knowledge of the use of child soldiers.  
24    A sentence or two on that, please, Mr. Sachdeva.

25          MR. SACHDEVA: Yes, Mr. President. This is a document generated



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1 by the -- the political departments within the UPC and, of course, the  
2 Prosecution submits a department that was headed by the accused. And in  
3 the first paragraph, there is, in the third -- third, fourth and fifth  
4 lines, there is information about the existence of child soldiers within  
5 the UPC from the ages of 10 to 15/16 years old. And therefore, in our  
6 submission, it goes direct to the knowledge of the accused of alleged  
7 illegality (indiscernible) --

8 PRESIDING JUDGE FULFORD: So he's copied in on the letter which  
9 contains that content.

10 MR. SACHDEVA: He is. At the bottom of the page as the first "cc,"  
11 the president of UPC is mentioned here.

12 PRESIDING JUDGE FULFORD: All right. Thank you. Seventy-four, a  
13 letter dated the 6th of January, 2004. It's from somebody by the name of  
14 Wele, W-e-l-e. It's to a group of mine workers. It's said to establish  
15 the link between the UPC and the FPLC. How does the argument run with  
16 this document, Mr. Sachdeva?

17 MR. SACHDEVA: Mr. President, I didn't want to interrupt your  
18 Honour, but the Prosecution is going to withdraw this document.

19 PRESIDING JUDGE FULFORD: Thank you. Seventy-five. There don't  
20 appear to be any difficulties. Although the Defence have reserved their  
21 position for 76, we have no additional questions for that document.  
22 Seventy-seven, no difficulties.

23 Seventy-eight, this is an AGS document ordering the eviction of a  
24 particular priest. It's dated the 13th of February, 2003. It's said to  
25 deal with UPC structure and Mr. Rafiki. And again, Mr. Sachdeva, how

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1 would you put your submissions on this?

2 MR. SACHDEVA: Mr. President, they are identical to the previous  
3 submission on similar documents.

4 PRESIDING JUDGE FULFORD: Thank you. Seventy-nine, a letter by  
5 46 individuals dated the 3rd of October, 2002, addressed to the  
6 president of the UPC. It's said that this will assist with the accused's  
7 role within the UPC. And what's -- how does the argument proceed on this  
8 document, Mr. Sachdeva?

9 MR. SACHDEVA: Mr. President, this is a document signed, produced  
10 purportedly by members of a community within Ituri, and it is relayed,  
11 transmitted to the president of the UPC. And therefore, in our submission  
12 it demonstrates that Mr. Lubanga was the -- the person seen to be  
13 responsible for events and area -- for the area within his zone of  
14 responsibility. And while -- while, of course, not precisely on point,  
15 there has been evidence of the community seeing Mr. Lubanga as the person  
16 who they could look up to and the safe -- the person who would safeguard  
17 their interests within the community.

18 PRESIDING JUDGE FULFORD: Very clear. Eighty and eighty-one, no  
19 apparent difficulties.

20 Eighty-two is a 23rd of October, 2003, letter from Kisembo to all  
21 brigade commanders concerning some public reports. It's said that  
22 there's a link -- that this helps with the link between the UPC and the  
23 FPLC. Is this the same point as in other documents? It appears to have  
24 the same heading, Mr. Sachdeva.

25 MR. SACHDEVA: Yes, Mr. President.

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1                   PRESIDING JUDGE FULFORD: And there's nothing additional to be  
2   said about this document; is that right?

3                   MR. SACHDEVA: I just want to -- I would like to confirm whether  
4   this indeed is a duplicate of the -- of the first few that the -- that  
5   your Honours had asked me about at the beginning of this exercise.

6                   PRESIDING JUDGE FULFORD: All right. So this may be a duplicate  
7   document?

8                   MR. SACHDEVA: It may be, yes.

9                   PRESIDING JUDGE FULFORD: Yes. Could you in any further submissions  
10   today indicate to us whether in the Prosecution's submission it is or  
11   isn't a duplication of an earlier document?

12                  MR. SACHDEVA: Yes, Mr. President.

13                  PRESIDING JUDGE FULFORD: Thank you very much. Eighty-three, no  
14   problems, or eighty-four.

15                  Eighty-five, a letter dated the 6th of December, 2003, by  
16   Ntaganda. It's said that this tends to show the accused's authority  
17   within the UPC and the FPLC. Your submissions on this document,  
18   Mr. Sachdeva?

19                  MR. SACHDEVA: Again, Mr. President, this document has been  
20   transmitted purportedly to Mr. Lubanga. At the top, it -- it indicates  
21   son excellence monsieur le president de l'UPC.

22                  PRESIDING JUDGE FULFORD: And I think the final document 86 is in  
23   similar form to some of the Rafiki documents that we looked at earlier.

24                  MR. SACHDEVA: Yes, Mr. President.

25                  PRESIDING JUDGE FULFORD: Right. Now, Mr. Sachdeva, thank you

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1       very much indeed for that assistance. The Defence have reserved their  
2       position in relation to some of these documents. And it would be very  
3       helpful to know what the timetable is in terms of the Prosecution seeking  
4       to introduce this material; and by that I mean, I imagine you're not  
5       intending simply to put them all in together, but that they will be  
6       dispersed, as it were, throughout the evidence to come. Or have I  
7       misunderstood the position?

8               MR. SACHDEVA: Mr. President, the application was for the  
9       documents to be admitted in bulk, as it were, from the bar table.

10              PRESIDING JUDGE FULFORD: In one go.

11       MR. SACHDEVA: Indeed, Mr. President. Of course -- and therefore,  
12       should the opportunity arise, the Prosecution would like to direct  
13       certain witnesses to those documents to enhance its weight.

14              PRESIDING JUDGE FULFORD: All right. This first emerges -- is  
15       going to emerge with a witness, I think, next week, is that right,  
16       Mr. Sachdeva?

17              MR. SACHDEVA: Indeed, Mr. President. I hope it is -- it is next  
18       week. It could be earlier on this week.

19              PRESIDING JUDGE FULFORD: Right.

20              MR. SACHDEVA: But, yes, there are a few documents that the  
21       Prosecution might show to that witness.

22       PRESIDING JUDGE FULFORD: Good. Could you, to help us -- given the  
23       Defence has for the moment reserved its position, could you set out for  
24       us at the end of the afternoon a list of those documents that you'll seek  
25       to put to that witness so that we can ensure that there are no delays,

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1       because those documents have not been resolved in advance?

2               MR. SACHDEVA: I will, Mr. President. The list has been  
3       communicated to the Defence, but I will specify the ones, the exact ones  
4       I want to show the witness.

5               PRESIDING JUDGE FULFORD: It's really for our -- just discretely  
6       for our benefit when we're reflecting on this.

7               MR. SACHDEVA: Yes, Mr. President.

8               PRESIDING JUDGE FULFORD: Thank you, Mr. Sachdeva.

9               Maitre Mabilille, there has been a fairly substantial amount of  
10       information that's been provided by Mr. Sachdeva this morning. I'm most  
11       certainly not going to ask for any kind of response from you now. The  
12       Defence, hitherto, for reasons that we understand, have made objections  
13       to some documents, have accepted others and has sought to reserve its  
14       position in relation to a third category. I think we're very close to  
15       the time when it is going to be necessary to know with the third  
16       category whether there are going to be objections or not, because we've  
17       reached the stage where we are going to have to issue a decision on  
18       admissibility.

19               Would it be convenient if we were to ask for a firm indication  
20       either way on those third-category documents by 4.00 p.m. on Friday of  
21       this week? Indeed, that's tomorrow, in fact. That may be too early. If  
22       it is too early, by Monday -- by Monday afternoon.

23               MS. MABILLE (interpretation): I would prefer if it were Monday,  
24       your Honour. 4.00 p.m. on Monday.

25               PRESIDING JUDGE FULFORD: Certainly. Yes, Mr. Sachdeva.

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1                   MR. SACHDEVA: Mr. President, may I make just one clarification?  
2       With respect to Annex 4, your Honours had asked me whether the decree  
3       that was referred to is available. And indeed, it has been tendered into  
4       evidence, and it is Exhibit 51, and not 52 as I had earlier said.  
5       Thank you.

6                   PRESIDING JUDGE FULFORD: Well, thank you all very much for  
7       assistance with those issues.

8                   On the 6th of May, 2009, document 1845, the Prosecution filed an  
9       application for the Chamber's authorisation to implement limited  
10      redactions to a screening note that is relevant to the next witness,  
11      number 24. The reason for the last-minute nature of this application is  
12      that for some reason -- most probably, we assume, oversight -- the notes or  
13      interview of a preliminary meeting with Witness 24 in July of 2005 had  
14      not been registered in the Prosecution's evidence management system.  
15      When the error was detected, the screening note was registered and the  
16      Defence was provided with an electronic copy on the 29th of April, 2009.

17                   The three redactions applied for are to, first, the name of an  
18      intermediary assisting the Office of the Prosecutor; second, the  
19      witness's telephone number; and third, the name of someone who has  
20      provided information to the witness about events that the Prosecution  
21      has, in turn, investigated.

22                   The intermediary still operates on a regular basis in Ituri, and  
23      revealing his or her identity, along with the assistance that has been  
24      provided in this case, would endanger the intermediary and others as well  
25      as prejudice further court-related activities.

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1 The Chamber has already ordered the redaction of this  
2 individual's name in another context. See document 1814, paragraph 36  
3 and 37.

4 The role of this individual was solely that of effecting an  
5 introduction with the Prosecution; and that event, together with the  
6 individual's identity, is irrelevant to the known issues in this case  
7 and it does not come within the disclosure regime.

8 The witness's telephone number is equally irrelevant to the known  
9 issues in the case, and it provides a possible link to this individual's  
10 current whereabouts. The witness is not within the ICCPP; and therefore,  
11 the redaction is necessary to ensure the protection of the witness. And,  
12 furthermore, this information, in our judgement, does not come within the  
13 disclosure regime.

14 The person who provided information to the witness cannot be  
15 traced despite efforts to do so. The information he or she provided is  
16 wholly irrelevant to the known issues in the case. And given his or her  
17 last known work and location, this person would be at risk if his or her  
18 identity were revealed.

19 Again, the redaction is necessary, in our judgement, and this  
20 information does not come within the disclosure regime.

21 The ex parte nature of the filing was appropriate for  
22 self-evident reasons, but a redacted version of applications of this kind  
23 should always be served on the Defence and entered into the court's  
24 electronic management system at the same time as the ex parte filing is  
25 made, unless there are wholly exceptional reasons for this step not being

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1 taken.

2 Mr. Sachdeva, we considered it necessary to deal with that issue  
3 before the next witness is called.

4 Are there any other outstanding matters that need to be addressed  
5 before that witness comes into court?

6 MR. SACHDEVA: No, Mr. President.

7 PRESIDING JUDGE FULFORD: Thank you very much. Well, we're now  
8 10 to 11.00, and I think rather than bring the witness in, do five  
9 minutes worth of work and then have to rise, it would be more sensible if  
10 we take the mid-morning break now. And so we'll sit again at 20 past  
11 11.00, if that's convenient.

12 Yes, Mr. Sachdeva.

13 MR. SACHDEVA: Mr. President, just to seek leave to be excused  
14 from court for the day. Ms. Solano will be taking the next witness.

15 PRESIDING JUDGE FULFORD: Yes, of course. Thank you for that  
16 courtesy, Mr. Sachdeva.

17 Maître Mabilie, anything you want to raise? No. Good.

18 MS. MABILIE (interpretation): Just to tell you, that I shall be carrying  
19 out the cross-examination. I just wanted to inform the Chamber of this.

20 PRESIDING JUDGE FULFORD: Thank you very much, Maitre Mabilie.  
21 Good. We'll rise.

22 COURT USHER: All rise.

23 Recess taken at 10.49 a.m.

24 On resuming at 11.21 a.m.

25 COURT USHER: All rise. Please be seated.



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1       PRESIDING JUDGE FULFORD: Can the witness be brought into court, please?

2               WITNESS: SERGE KILO NGABU

3               (Witness answered through interpreter)

4       PRESIDING JUDGE FULFORD: Good morning, sir.

5       THE WITNESS (interpretation): Good morning.

6       PRESIDING JUDGE FULFORD: (Previous translation continues) ...

7       waiting, but we've had some other administrative matters to deal with.

8       We're now ready to commence your evidence, and thank you for coming into  
9       court. I hope in front of you there is a card, which I anticipate will  
10      be in French, and I'm going to ask you to read out the words of the card,  
11      to read them out loud so that everyone can hear what you say.

12              THE WITNESS (interpretation): I solemnly declare that I shall  
13      say the truth, the whole truth.

14              PRESIDING JUDGE FULFORD: Yes, Ms. Solano.

15              THE WITNESS (interpretation): And nothing but the truth.

16              MS. SOLANO: (Previous translation continues) ... morning.

17              Questioned by Ms. Solano:

18      Q.     Good morning, sir.

19      A.     (No interpretation)

20      Q.     My name is Julieta Solano. I represent the  
21      Office of the Prosecutor. We met earlier this week.

22      A.     Yes.

23      Q.     I will be asking you a few questions this morning on behalf of  
24      the Prosecution. And I would just like to ask you if any of my questions  
25      are unclear, all you need to do is ask me to repeat or rephrase, and I

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1 will do so gladly.

2 A. Okay.

6 Q. Could you please tell us your full name?

4 A. Kilo Ngabu Serge.

5 Q. (Previous translation continues) ... born?

6 A. I was born in Kisangani on the 16th of December, 1980.

7 PRESIDING JUDGE FULFORD: Ms. Solano, if I can help, as I think  
8 we saw yesterday with the French, don't worry too much about the last  
9 line, because the last line will not appear until we reach the next line.  
10 So look at everything up to that point in the French transcript.

11 MS. SOLANO: Very well. Thank you, Your Honour.

12 Q. Sir, is it correct that you belong to the Lendu ethnic community?

13 A. Yes, I confirm that.

14 Q. Is it correct that you speak French, Swahili, Lingala and, to  
15 some extent, also Kilendu?

16 A. Yes, I do.

17 Q. Could you please indicate how well you speak and understand those  
18 languages?

19 A. For French, French is the official language of my country. I  
20 learnt it at school as I grew up. Swahili is the -- one of the national  
21 languages and is spoken a lot in the circles where I grew up. Lingala is  
22 also a national language, mainly in the western part of the country,  
23 mainly around the capital. My mother tongue I cannot speak correctly  
24 because I grew up in a different town, and I only got back to my village  
25 recently and I didn't learn the language completely, but I do understand it.

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1 Q. Did you begin your primary studies in Lubumbashi in Katanga Province?

2 A. Yes. I started my primary schooling in Lubumbashi in 1986.

3 Q. And did you complete those studies in Lubumbashi?

4 A. I completed them in Lubumbashi, in Nande, I think. In 1992.

5 Q. (Previous translation continues) ... your secondary studies in  
6 Lubumbashi?

7 A. Yes. I started them in '92 in Lubumbashi, but I believe I finished  
8 them in Bunia.

9 Q. Do you recall, approximately, in what year you moved to Bunia?

10 A. In 1994.

11 Q. And did you complete your secondary studies in Bunia?

12 A. Yes. I completed them in the school year '97/'98.

13 Q. And have you also done university studies?

14 A. Yes. I should be finishing my law course this year at the  
15 Law Faculty in Kinshasa..

16 Q. Thank you, sir. And in what year did you begin your university  
17 studies?

18 A. I started in 2003.

19 Q. And when you began those studies, were you at the same university  
20 that you are currently studying at?

21 A. Yes. I started at the University of Kinshasa, and I'm still  
22 enrolled there until I complete the studies.

23 Q. Now I would now like to ask you some questions about what you did.  
24 I'm sorry. Did you want to add something?

25 A. No. Thank you.

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1           Q.    Very well. I would now like to ask you some questions about what  
2    you did after you finished your secondary studies in Bunia and the time  
3    when you began your university studies in 2003. So in between the years  
4    1997 or 1998 and the years 2003, can you please tell the Court where you  
5    lived in those years, please?

6           A.    I was in Bunia completing my post-primary studies. I started  
7    living in Mudzipela. And because of -- it was getting -- the conflicts  
8    were getting sharper between the ethnic groups, and because of the  
9    rebellion, I left that part of town to go to Bankoko. And after study --  
10   my secondary studies, as they're called in my country, I took two years  
11   between 2002 -- 2000, sorry, and 2002 to teach in a private school, Mont  
12   Hoyo. I was teaching French in the second and third grade in our system. I  
13   already gave -- I also gave national language classes. And after I  
14   completed one school year in that private school, I went to work at an  
15   NGO which is SOS Grand Lacs.

16          Q.    Thank you very much for what you have told us thus far. I would  
17   like to ask you some questions about your work  
18   with that NGO. But before I do that, I want to ask you a couple of  
19   questions about your work at the Mont Hoyo School. My first question is,  
20   can you please tell the Court whether it is correct that Mont Hoyo was a  
21   secondary school?

22          A.    Yes, it was. It was private, but had an agreement with the state.

23          Q.    Could you tell us the age of the students that attended  
24   this secondary school?

25          A.    The normal age for post-primary schooling is from 12 or 13 upwards.

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1 So the ages ranged between 12 and 17 or 18. It depends on the course of  
2 each student.

3 Q. And where exactly was this school located?

4 A. The school was located across from the building that housed the  
5 governor of the district.

6 Q. Sir, on what date did you stop working as a teacher at that school?

7 A. In 2001. 2001. As the -- as for the month, it must have been  
8 July. Yes, probably -- or certainly July. Maybe August or September. I  
9 cannot remember exactly, but around July.

10 Q. I see. That was some time ago. How long after you  
11 stopped working as a teacher did you begin working for the NGO?

12 A. In fact, I left the school and teaching to go over to the NGO,  
13 the humanitarian organisation, without any noteworthy break or interval.

14 Q. And can you explain to the court what sort of work this NGO did?

15 A. Right. SOS Grand Lacs - I'm not sure whether it still  
16 exists - was a non-governmental organisation under Congolese law. It was  
17 active in the area of the defence of children's rights. And they came to  
18 Bunia because they were sent by UNICEF on a mission involving the  
19 demobilisation and reintegration of child soldiers demilitarised from  
20 Kyakwanzi in Uganda. The organisation was there to follow up the case of  
21 those children.

22 Q. Thank you. I was merely observing a pause in order to wait for  
23 the end of the interpretation. Could you  
24 please explain what sort of missions SOS Grand Lacs was -- went on at the  
25 request of UNICEF, whether it was over a certain period of time? What

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1 was the duration of these missions, please?

2 A. Right. I don't know what happened before SOS Grand Lacs came to Bunia,  
3 or whether it conducted other missions with UNICEF. I wasn't in that  
4 organisation yet. But what they did in Bunia was, that they had a role to  
5 play which was, as I said, to prepare the families of demilitarised  
6 children, prepare them for the return of their children. They had to be  
7 made aware. The children had to be brought over to Bunia. As soon as the  
8 families were ready to welcome them, they would be brought back for  
9 integration. And after that, the organisation had to monitor their  
10 integration on the social level, make sure they went back to school if  
11 they wanted to or that they fitted into some professional scheme for those  
12 whose level of study did not enable them to go back to school.

13 Q. Can you tell us, this group of children,  
14 what nationality were they?

15 A. The children were all Congolese.

16 Q. And can you tell us what ethnic group or groups they belonged to?

17 A. Well, most of them were Hemas.

18 Q. And how had these children come to -- come to be in Kyankwanzi?

19 A. Well, you know, at the time of the rebellion, and more precisely  
20 at the -- at the time of the RCD-K/ML government in Bunia, the rebel  
21 movement needed to get more troops in their ranks, and that is why they  
22 recruited young children and prepared them for their military tasks to  
23 increase the ranks.

24 Q. You

25 referred to a rebellion. Can you tell us what year or what time period it

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1     took place in?

2           A.     In DRC, we can say that in the interval between 1990 and 2003,  
3     there were two major rebellions. The first one was the rebellion led by  
4     Laurent-Desire Kabila against President Mobutu at the time. And that was  
5     in 1996; and it lasted until 1998, if I'm not mistaken. And after that,  
6     there was the RCD rebellion in the beginning, which with time broke down  
7     into several rebel movements, and that was in the second half of 1998.  
8     And I think that the RCD in Bunia arrived in June, 1999, if I'm not  
9     mistaken. It must have been June or July 1999.

10          Q.     Thank you, sir. So the rebellion was taking place in around June,  
11     1999. And the group of children who you have told us were sent to  
12     Kyankwanzi, do you know when those children were sent there?

13          A.     I can't give you a precise date as to when these events happened,  
14     all the more so than I joined the organisation later on, but I can  
15     imagine. I can imagine, because I joined the organisation in 2001, in  
16     the month of September or end of August, beginning of September, and I  
17     can imagine that the organisation in Bunia had already existed for two  
18     months before I joined it.

19     When the children were actually brought to Kyankwanzi, it could  
20     only have been at the beginning of 2001 or in 2000.

21          Q.     Just for the -- for the record, Mr. Ngabu, can you tell us where  
22     Kyankwanzi is located, in what country?

23          A.     Kyankwanzi is in Uganda. Well, I don't know exactly in which  
24     district it is.

25          Q.     I would now like to ask you to tell the Court about your

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1 functions within the NGO SOS Grand Lacs. Can you please describe what  
2 your duties were?

3 A. Well, after completing a one-month professional internship, I  
4 signed a contract with the Association SOS Grand Lacs to be a social  
5 worker. We were a team, and our duty was to monitor the psychological  
6 wellbeing of the children. So that some psychologists were more specifically  
7 in charge within the organisation of the psychological aspect of the  
8 monitoring, but our work was to assess the reintegration of children into  
9 their families, how they were integrated into the schools in which they  
10 were placed and how they integrated their professional training.

11 Q. (Previous translation continues) ... you've been saying "nous,"  
12 so I would like to ask whether, in addition to yourself, other persons  
13 worked as social workers.

14 A. Yes. Yes, there were other ones. There was one team. There were  
15 amongst ourselves some who had come from Goma with the organisation and  
16 others who were hired locally.

17 PRESIDING JUDGE FULFORD: Ms. Solano, just a small point, but it  
18 may be later of significance. You're doing extremely well at looking at  
19 the French transcript and waiting for it to end. You get 10 out of 10  
20 for that. Just occasionally, at the beginning of your questions, you're  
21 not activating your own microphone and your finger is coming down  
22 slightly late on the buzzer, as it were. The effect is, that only part of  
23 your questions are being transcribed. So I'm sorry to interrupt, but  
24 could you be a little bit more alert with that? Now, the Court Officer  
25 is about to tell me something as well.



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1 (Trial Chamber and Court Officer confer)

2 PRESIDING JUDGE FULFORD: Okay. Apparently, Ms. Solano, I  
3 shouldn't have given you 10 out of 10. Certainly 8 and a half out of 10.  
4 I'm told that there still needs to be a slightly longer gap between the  
5 end of the witness's evidence and your next question. So you're clearly  
6 trying, and thank you, but slightly longer. All right. Thank you.

7 MS. SOLANO: Thank you, Your Honour. I will bear that in mind.

8 Q. Sir, you've said that your work, your duties, were to assess the  
9 reintegration of children into their families, into their schools and  
10 into their professional training programmes. The first thing I would  
11 like to ask you in relation to that is, whether by the time you joined the  
12 NGO the children had already been  
13 placed with their families and whether  
14 they had already commenced school and professional training?

15 A. Actually, when I arrived, there were some who were already -- or,  
16 rather, there were already those who had  
17 gone back to their families. But  
18 on the other hand, there were others who were placed in foster families,  
19 because some families were hostile to the whole process and some could  
20 not -- or some children could not return to their families because their  
21 families might have been in areas which were difficult to access.

22 Q. Thank you. And overall, what was the size of this -- of the group  
23 of children? What was their number?

24 A. A number of children, I think, must have been around a hundred,  
25 a hundred thirty. Maybe a hundred thirty-four. Well, roughly a hundred

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1 thirty, around there.

2 Q. Thank you. Can you please tell us how it was that the follow-up  
3 of these 134 children was organised or perhaps distributed between you  
4 and the other social workers?

5 A. Well, actually, to go into the field, as we said, to go into the  
6 field and assess the situation, we will always work in teams. You would  
7 never go on our own. And after having visited the children, we would  
8 draft a report, and this was always a report drafted by the whole team.

9 Does this answer your question?

10 Q. I think you did, but I'll ask you a follow-up question. How many  
11 of those 134 children did you visit or have contact with personally?

12 A. I don't know what you mean when you say "personally," because  
13 when I said we would go into the field, those were visits we did in  
14 teams.

15 Q. Were all the children visited during the time that you  
16 spent with the NGO?

17 A. Well, it is worth noting that these children had huge  
18 difficulties to integrate their families or reintegrate their families,  
19 because most families were against their returning. They were hostile to  
20 their returning, and this led to difficulties with some of those  
21 families. It was difficult for us to talk to the families, to talk about  
22 family reunification for those children. And in many cases, these children  
23 had been sent out of their own volition, sent to the military. So they  
24 didn't wish to see the children return to their families, because they  
25 wouldn't have completed the objective for which they were sent out.

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1 Q. With what regularity did your team visit the children?

2 A. Actually, there weren't that many of us doing all of this. All  
3 the more so, the families were scattered all over. There was some in  
4 Mongbwalu, others in Katoto, others at la Centrale, others at Sota, and  
5 still others in Bunia, on site. So how often we would visit them, I can  
6 tell you that we worked from Monday to Saturday, and we wouldn't go into  
7 the field every single day.

8 So for those who were in Bunia, it was easy for them to access  
9 our offices, because it was easy for them to come. So contact was easy.  
10 But for those who were inland, we had to organise field trips.  
11 Otherwise, this was a full-time job. This means that our staff wasn't --  
12 I mean, there weren't that many people carrying out the task compared to  
13 the work that needed to be done.

14 Q. In your contact with the children and the families, did you come  
15 to learn in what circumstances the children had been sent to Kyankwanzi?

16 A. Well, the families wouldn't state clearly the reasons for which  
17 they were reticent. For example, you would come and visit them and  
18 discuss matters with them so that they would welcome the child back.  
19 Nevertheless, when you would bring the children -- or the child back home  
20 and you would visit them a bit later, later on you would realise that it  
21 was difficult for the child to reintegrate the family. Some children  
22 even said, "I would like to go back to the military, because at home I'm  
23 not very welcome."

24 Q. Thank you, sir. And did you come to understand why the children  
25 had been sent to Uganda?

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1 A. I think it was -- well, you see, the context in Bunia at the time  
2 was such that there was this rebellion. And over and above the rebellion,  
3 there was a war between the different communities that the people referred  
4 to as a conflict between the Hema and the Lendu, an inter-ethnic conflict.  
5 Many families considered this as some kind of assurance for the future to  
6 have children who could defend them. So this was the main reason for  
7 which they would have their children sent out there.

8 Q. Do you know the name of the rebels who these children were sent  
9 to train by?

10 A. You mean in Uganda?

11 Q. Yes.

12 A. I have no idea.

13 Q. That's fine. You had earlier on mentioned one group. You had  
14 said that the rebellion was a rebellion of the RCD. Can you say who the  
15 leaders of that rebellion were?

16 A. Since the RCD came to Bunia, there have been quite a few people at  
17 the head of the movement. In the beginning, it was Professor Wamba dia  
18 Wamba, who was assisted by Mbusa Nyamwisi and by Tibasima. Later -- or  
19 after Wamba was removed, Mbusa was the leader of the movement, but then  
20 there was a conflict. A conflict arose. A leadership conflict most  
21 probably arose between Mbusa and Tibasima. And Mbusa was still at the  
22 head of the movement, and Tibasima was his deputy.

23 Q. Sir, was this group associated with any ethnic group or groups in  
24 particular?

25 A. Well, you know, the RCD group in Bunia, well, it was set up

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1       there, and it was able to remain there thanks to the Ugandan army. The  
2       Ugandan army was the one to stoke the conflict, the inter-ethnic  
3       Hema-Lendu conflict. And so in that way, the Lendu were hostile to the  
4       presence of Ugandans, but because RCD wanted to maintain its position at  
5       Bunia, well, Uganda helped it to do so, indeed to expand, to gain control  
6       of the whole of Ituri.

7               So could you remind me of your question, please?

8       Q.   Certainly, I can do that. Was the RCD group associated with one  
9       particular ethnic group or several?

10      A.   Well, the RCD as such - well, I can say, that RCD would be attached  
11      to one group or the other depending on the -- what the particular group  
12      could bring to it, the benefit it could derive from it. For instance, to  
13      gain control of the whole of Ituri, initially RCD was on the Hema side.  
14      In that way, the Lendu villages were devastated at the beginning of the  
15      conflict with the blessing of the Ugandan Army.

16      Now, later on, because the -- there was this leadership conflict  
17      between Mbusa and Tibasima, the RCD wanted to gain advantage from the  
18      fact of being alongside the Lendu community.

19      Q.   Thank you, sir. And the rebel group that sent the children to  
20      Kyankwanzi, was that rebel group associated with any particular  
21      ethnicity?

22      A.   What I can say is, that the children were taken to Kyankwanzi  
23      because, as I said earlier on, this could be attributed to the RCD, their  
24      arrival in Kyankwanzi and so for the purpose of training. So if they had  
25      been trained in that way, that proves that RCD at the time was continuing

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1 to take advantage of being alongside the Hema community.

2 Q. Sir, do you know what -- you mentioned UNICEF earlier, and you  
3 said that UNICEF was involved with the return of these children from  
4 Uganda. I wanted to ask you if you -- if you can explain what UNICEF  
5 means or what sort of agency or organisation it is.

6 A. Well, UNICEF is a part of the United Nations. It takes care of  
7 the interests of children. It's the United Nations institution for  
8 child -- children.

9 Q. Thank you. And to your knowledge, why was UNICEF involved in the  
10 return of these children from Uganda?

11 A. Well, you know, there are international conventions that ban  
12 enlisting children in armed groups. So it was UNICEF's duty as an  
13 organisation defending the rights of children to become involved in that  
14 operation.

15 Q. You've already explained what the reaction of some of the  
16 families that you visited was. Could you tell the Court how the children  
17 who were part of this project react to the work that you did?

18 A. For many of them, it was a relief to come back to their own  
19 countries, and in particular -- or especially to re-enter the normal social  
20 life in their families, at school or in vocational training, but they  
21 themselves were confronted with difficulties, the difficulties involved  
22 in a society that was rejecting them or would like to use them against  
23 their will for a mission of which they had no knowledge of either the causes  
24 or the fallout.

25 Q. And what was that mission that society wanted to use them for?

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1           A.    Well, I believe it was inter-ethnic war. These children were  
2           expected to defend their communities against the Lendus.

3           Q.    Thank you. Can you please tell us the ages of the children that  
4           were part of this programme?

5           A.    When I arrived, the very youngest was between 8 and a half and 9  
6           years of age, but that could vary from 8 and a half, 9 year olds, to up  
7           to 18.

8           Q.    Could you tell us whether they were boys or girls or both?

9           A.    Well, girls, there were very few of them. Only two, in fact. Two.  
10          There were far more boys. Boys were more likely to be effective in  
11          battle than girls, no doubt.

12          Q.    How did you establish the age of the children that were part of  
13          the programme?

14          A.    I don't really understand. What do you mean by "establish"?

15          Q.    I just want to -- I just want you to tell the Court how you knew  
16          that these children ranged in between 8 and 9 and a half and 18 years  
17          old.

18          A.    Well, actually, when the military operation was supposed to be  
19          taking place in Uganda, well, all those who were under the age of 18 were  
20          asked to join the demilitarisation programme, and it was  
21          during that effort that children were taken to Bunia. So the age was  
22          determined at that point in time. Most of the children knew their own  
23          ages. They knew their dates of birth, and that was written down on their  
24          data sheet and they could tell us that easily. So of course, an  
25          8-year-old is able to give you that type of information.

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1 Q. In the context of your work for the NGO, did you have any direct  
2 contact with the leaders of armed groups?

3 A. No. Do you mean by that the heads, the leaders of the interethnic  
4 groups or of the rebel groups, because the movements at that time were --  
5 the occupying forces were the RCD. They were later replaced by the UPC/RP.  
6 Is that what you're referring to? Are you talking to me about the  
7 leaders of those two groups or the ethnic militiamen?

8 Q. With the leaders of the RCD and the UPC. Did you have any direct  
9 contact with them?

10 A. Well, with the RCD, yes, because we brought back the children  
11 from Uganda to Bunia when the RCD government was in power. These  
12 children encountered difficulties in becoming reintegrated into  
13 society. And then UPC came along. And at that time the situation had  
14 already gotten worse. So with UPC, we had no contact at all.

15 Q. What sort of contact did you have with the RCD government?

16 A. Well, in fact, for -- to bring these children back to Bunia, the  
17 first thing that had to be done was to be sure that RCD supported the  
18 rationale presented by the international community. In fact, there was  
19 pressure being exercised on RCD because the children had been taken out  
20 for training. That was in itself a crime. And RCD, given the pressure,  
21 could only give in. So the first thing was to be in contact with RCD so  
22 that these children could be welcomed on the spot in this area that was  
23 under RCD control. And later on, we needed the support of RCD to conduct  
24 our activities in Bunia and the surroundings.

25 Q. You've mentioned some pressure from the international community.



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1 Can you explain what you mean by that pressure?

2 A. As I said earlier on, there are international conventions, in  
3 particular the convention on children's rights on bans for the enlisting,  
4 conscription, recruitment of children into armed groups. UNICEF, and  
5 behind UNICEF we have, of course, United Nations and the international  
6 community at -- at large, was confronted with this situation and had to  
7 react. And even the Government of Uganda needed to cooperate in that  
8 action.

9 Q. Can you tell us in what way the United Nations, the international  
10 community and Uganda reacted?

11 A. Yes, of course. For Uganda, one could only deplore the  
12 situation. For instance, if you read the International Court of Justice's  
13 decision on the conflict between RCD and Uganda, there is a paragraph  
14 that shows that Uganda had said that these children -- well, they had  
15 found these children there, and they had gathered them to protect them,  
16 actually. That's what's written in the report.

17 Q. Sir, you mentioned that schooling and professional training were  
18 available to this group of children. Can you tell us how such schooling  
19 and training were funded?

20 A. In fact, the SOS Grand Lacs NGO that was entrusted with this  
21 mission was funded by UNICEF to carry out all these activities.

22 Q. Sir, should I understand from your answer that the schooling and  
23 the professional training were paid for with funds from UNICEF?

24 A. Yes, that's right.

25 Q. Sir, and the children's reintegration into their families, were

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1       there any costs associated with that process of reintegration?

2           A.    Right. Well, when there was the family reunion that was to be  
3       organised, we had to begin by making sure that we could guarantee the  
4       right sort of equilibrium for the child, to make sure that his main needs  
5       were met, the essentials of life were guaranteed for his return to the  
6       family. And the families very often got support. They received aid.  
7       For instance, agricultural inputs. So they would get help in coping with  
8       this extra burden. Obviously, it was up to them to cope with it, but we  
9       provided them with this support.

10       Q.    And where did the funds for that purpose come from?

11       A.    As I've already said, it's on the basis of UNICEF funding, and  
12       it was on that basis that we carried out all of our activities.

13       Q.    Thank you for that precision. Sir, did all of the children  
14       remain in the programme?

15       A.    Unfortunately, no. We had what I would call a noble task, but  
16       unfortunately, we didn't manage to carry out all of our mission.

17               When I arrived, we only managed to exert control over around  
18       about 50 children out of the 130 or so. That's because, in fact, quite a  
19       lot had been taken up again by the armed group.

20               As the situation in Bunia got worse, pretty well all of those  
21       children went back to the armed forces.

22       When it was difficult for the mission to continue, round about  
23       November 2002, there were only round about ten -- not even, seven to eight  
24       children who we had sent to vocational training centres, and some were  
25       still in school. But in general, unfortunately, the mission was a

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1 failure.

2 Q. To your knowledge, how did it come to be that most of the  
3 children found themselves in the armed forces again?

4 A. Well, as I was saying, the situation was getting worse and worse.  
5 The RCD had been ousted from Bunia by the new movement that took over  
6 Bunia, the UPC, and the -- the leaders for the most part were Hema. So  
7 those children were sought after, because they were supporters of the Hema  
8 group, and that's why the situation occurred.

9 Q. So just so I'm very clear on this, when you say that the children  
10 went back into armed groups, what groups do you mean?

11 A. I'm talking about the UPC.

12 Q. Sir, and at the time, who was the leader of the UPC?

13 A. The UPC, as far as I know, had only one leader from 2002 to 2003,  
14 Thomas Lubanga.

15 Q. How exactly were these children sought after?

16 A. Well, it depended. There were families who still felt affection for  
17 their children, and perhaps they concealed them. They hid them. If not,  
18 the children were threatened. If you didn't go back to the Army, it was  
19 you, yourself or your family that would be threatened or attacked.

20 Q. And in what way would you be threatened or attacked?

21 A. This was a highly militarised area and environment, and there  
22 were those who had gone back to the Army already. They had arms. They  
23 had weapons. They knew where to get hold of those who hadn't yet gone  
24 back to the Army. So it was easy. They all knew each other.

25 Q. How did they know each other?

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1           A.    They had been in a camp together in Kyankwanzi, brought back  
2           together to Bunia. They knew their HQ. They sometimes met at our  
3           headquarters. And for instance, when we went to other places, Katoto or  
4           Iga-Barriere, we met them. They were all walking together. They knew  
5           each other. And they would say, "Oh, look. You know, so-and-so's no  
6           longer here. He's moved. He lives somewhere else now."

7           Q.    Thank you. To your knowledge, what was the attitude of the UPC  
8           with regards to these children joining that group?

9           A.    When you say "attitude," what exactly do you mean? Could you  
10          explain your question to me?

11          Q.    Did the UPC want these children? Did it not want these children  
12          in its ranks?

13          A.    In my opinion, the UPC, in practical terms, never expressed any  
14          ban on these children being able to join ranks again.

15          Q.    Sir, to your knowledge, did the UPC ever have any initiatives to  
16          demobilise the children in its ranks?

17          A.    When the UPC took Bunia in 2002, well, I think it was only two  
18          months later on, two months after that that there were Radio Candip and TV  
19          broadcasts in which the UPC pretended to demobilise certain children. I  
20          don't know whether it was the Rwampara training camp, but what was happening  
21          was that on a daily basis we found that those children were still present,  
22          for instance, as bodyguards driving around in their pick- ups. That's how  
23          we saw them, because the town itself was strongly militarised at the time.

24          Q.    And you've made specific reference to a time period, two months  
25          after the UPC took power in Bunia. You've mentioned the TV broadcast,

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1 and you've said that the UPC pretended to demobilise certain children.

2 Can you explain to the Court what happened at the time?

3 A. Right. Well, I said that it was a sham. That's because of what  
4 happened later, because actually, nothing happened. Nothing changed,  
5 notwithstanding this appearance of demobilisation. That demobilisation  
6 only concerned a limited number of children. That's what I mean. Have I  
7 given you a clear answer to your question?

8 Q. Yes, sir. Thank you. But I would like to ask you how many  
9 children were concerned by this, in your words, pretence of  
10 demobilisation, how many children?

11 A. You know, it's very difficult when you see a shot on a television  
12 screen to count the number. We can just guess that it was no more than  
13 20. That was an illustration that was shown to us. If as a leader or  
14 chief you want to show something, you start by showing the inauguration  
15 or the start-up of something that is then supposedly going to continue.

16 Q. Thank you. And what do you mean when you say that despite this  
17 appearance of demobilisation nothing changed?

18 A. Well, as I've already said, we continued to see those children.  
19 Actually, in the army, in the FPLC, the armed branch of the UPC. We  
20 continued to see them in the town, in the cities. They were threatening  
21 everybody.

22 Q. In what way did these children threaten everybody?

23 A. You know, these children -- well, if they're called "children,"  
24 it's to do with their state of consciousness. In other words, they don't  
25 know how correctly to assess certain things. And if you give a weapon to

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1 a child, he might see himself as Rambo, but the effect of his use of that  
2 weapon can be disastrous.

3 Q. And were the children that you saw in the town and the cities in  
4 fact carrying weapons?

5 A. They certainly were. They were wearing military garb, and they  
6 were carrying Kalashnikovs and other weapons.

7 Q. Sir, I apologise if I ask you to repeat something which you have  
8 already said, but can you tell the Court the age -- ages of the children  
9 that you saw carrying weapons in the town and in the cities at that time?

10 A. As I've already said, between 9 and 18. And they were pretty  
11 well all carrying weapons.

12 Q. To your knowledge, were there any other initiatives by the UPC to  
13 demobilise children from its ranks?

14 A. I do not remember.

15 Q. Do you recall whether the NGO that you worked for was ever  
16 involved in a demobilisation initiative undertaken by the UPC?

17 A. I do not remember that at all.

18 MS. SOLANO: Your Honours, I would like to show the witness a  
19 document. It is a document called "Enrollment of Child Soldiers." And  
20 for the Court Officer, the ERN is DRC-OTP-29-0274, and I have paper  
21 copies for the Bench and the Defence and the witness.

22 PRESIDING JUDGE FULFORD: Thank you very much, Ms. Solano. Is  
23 there a copy for the Legal Representative of the Victims as well,  
24 Ms. Solano?

25 MS. SOLANO: Mr. President, I believe I gave seven copies to the

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1 Usher, but he can correct me if I'm wrong.

2 PRESIDING JUDGE FULFORD: Good. We can make sure it's  
3 distributed. Thank you very much.

4 COURT OFFICER: This document already bears an evidence number.  
5 It's EVD-OTP-00047, and has been presented during the confirmation of  
6 charges hearing.

7 MS. SOLANO: Thank you.

8 PRESIDING JUDGE FULFORD: Yes, Ms. Solano.

9 MS. SOLANO:

10 Q. Sir, please let me know once you've had a chance to look at  
11 the document and answer my questions.

12 A. Yes, I've read it.

13 PRESIDING JUDGE FULFORD: Yes, Ms. Solano.

14 MS. SOLANO: Thank you.

15 Q. Sir, can I draw your attention to the date that appears near the  
16 top of this document, 21 October 2002. Can you confirm whether on that  
17 date you were working with the NGO SOS Grand Lacs?

18 A. As I said, our activities had been discontinued, because of  
19 insecurity, in November 2002.

20 Q. So is it correct that on the date that appears on this document  
21 you were still working with the NGO?

22 A. Yes, but we were already having trouble doing our work. We were  
23 there in Bunia. There was a representative of the headquarters in Goma.

24 Q. Thank you. And can I also draw your attention to the reference  
25 in the second paragraph of the document, the reference to activities with

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1 the NGO SOS Grand Lacs in the context of the demobilisation of child  
2 soldiers?

3 Sir, to your knowledge, what do these activities refer to?

4 A. There was no translation. Could I have it, please?

5 MS. SOLANO: It appears that my question was not interpreted.  
6 Should I repeat it?

7 PRESIDING JUDGE FULFORD: Let's have another go, Ms. Solano.

8 MS. SOLANO:

9 Q. I have drawn your attention to the reference in the second  
10 paragraph of this document to activities with the NGO SOS Grand Lacs. My  
11 question is: Do you know what activities are being referred to?

12 A. I don't know exactly which activities SOS Grand Lacs would have  
13 carried out with UPC. I'm under the impression that since it comes from  
14 the president of UPC, he's probably referring to activities SOS Grand  
15 Lacs carried out with RCD before UPC got hold of Bunia; because at the  
16 time, the President of UPC was a Minister of Defence of the RCD movement.  
17 So maybe since the letter comes from him, that's what he is referring to  
18 when he talks about "activities." It would be activities in contact with  
19 RCD, the predecessor as regards holding Bunia.

20 Q. Thank you. And what activities were those? Can you explain what  
21 sort of activities SOS Grand Lacs carried out with the RCD?

22 A. RCD. Yes. Well, as I said, we needed the support of RCD for our  
23 activities to be carried out in a context of security in Bunia. RCD had  
24 control over the territory and was in charge of allowing us to work  
25 freely without being disturbed. So that is why we were in touch



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1 with RCD.

2 Q. To your knowledge, was Mr. Thomas Lubanga involved in the  
3 activities with SOS Grand Lacs at the time?

4 A. Maybe as Minister of Defence of RCD he would have been directly involved  
5 The demobilised children from Kyankwanzi arrived in Bunia, in an RCD-  
6 controlled territory. He was most probably involved as Minister of Defence.

7 Q. And to your knowledge, at around the time that this letter is  
8 dated, that is October 2002, was there any collaboration between the UPC  
9 or its armed branch the FPLC and the NGO SOS Grand Lacs for the  
10 purposes of demobilisation of children in the UPC's ranks?

11 A. You know, the UPC had expansionist ambitions and needed more people  
12 in its armed ranks. Activities of NGOs, such as SOS Grand Lacs, were not  
13 in keeping with those aims, so I don't see how UPC would have willingly  
14 cooperated with the NGO, because there wasn't only SOS Grand Lacs as a  
15 NGO, there were many other humanitarian NGOs that were threatened with  
16 closure. Even the Catholic church was threatened. I remember one of the  
17 Catholic priests, the one we used to call Sipan Mersun (phoen) being  
18 declared persona non grata in Bunia. And another humanitarian person who  
19 was charge of Locha the -- UNOCHA, the coordination organisation for  
20 United Nations activities in Bunia, and they -- this person, too, had  
21 been declared persona non grata and had to leave Bunia, and he did indeed  
22 leave. So the humanitarian helpers and people moving in human rights  
23 events had different aims from UPC who was out for enrolling children.  
24 Therefore, they didn't support at all our activities in Bunia.

25 Q. Sir --

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1                   PRESIDING JUDGE FULFORD: Ms. Solano, we're now at 10 to 1.00.

2       There's an administrative matter that we need to deal with that relates  
3   to the stage after your questioning. I'm seeking to secure a moment that  
4   is convenient to you, either now or after the next question or two. I'm  
5   in your hands.

6                   MS. SOLANO: Mr. President, I can stop now.

7                   PRESIDING JUDGE FULFORD: As long as that's not going to  
8   inconvenience you.

9                   MS. SOLANO: Not at all.

10                  PRESIDING JUDGE FULFORD: Thank you very much.

11                  Sir, we're going to break for lunch now. Thank you very much for  
12   your cooperation so far this morning. We will recommence with your  
13   evidence at 2.45. So if you could be back with us then, thank you very  
14   much, indeed. And the usher will help you leave court. Thank you.

15                  THE WITNESS (interpretation): Thank you.

16                  (The witness stands down)

17                  PRESIDING JUDGE FULFORD: Mr. Mulamba, if I may, there is, as I  
18   understand it, an application on behalf of yourself and Mr. Walley to  
19   ask some questions of this witness. Am I right in understanding that as  
20   being the position?

21                  MR. MULAMBA (interpretation): Yes, your Honour.

22                  PRESIDING JUDGE FULFORD: And again, I want to make sure that we've fully  
23   understood the area that you want to deal with. And as I understand it, it  
24   is on the re-recruitment of child soldiers following their initial  
25   demobilisation or after they had fled from the military structure of the

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1       UPC. Am I correct in understanding that that's the main area that you  
2       wish to address?

3               MR. MULAMBA (interpretation): Yes, your Honour, it is. And we  
4       noted that Defence covered the questions that we had, so this is not  
5       going to be necessary.

6       PRESIDING JUDGE FULFORD: There we are. Thank you very much indeed, Mr.  
7       Mulamba. That's very helpful. Thank you. Good. I needn't trouble you  
8       any further then.

9               Maitre Mabilille, one issue that you, if I may say so, wholly  
10      properly raised yesterday was the fact that page numbers and line numbers  
11      change between the initial version of the transcript and the edited  
12      version.

13              The Court Officer helpfully reminded the Bench after we rose that  
14      if notes are made on screen rather than manually in manuscript, any  
15      annotations or notes that you've made in relation to a particular part of  
16      the transcript, that will be moved -- or those notes will be moved  
17      automatically to the right place within the edited version of the  
18      transcript. So although that doesn't completely cover the issue that you  
19      raised, there is a helpful contribution that the -- the automated system  
20      can provide in the sense that there is that automatic transfer.

21              Now, it may be that you were well aware of that already, but I  
22      thought I would underline it given the particular concern that you raised  
23      yesterday. So that's just a piece of information really.

24              The final thing is this: Am I right in drawing a conclusion that  
25      the transcript this morning of the -- the French transcript this morning

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1 of this witness's evidence has been, I think, very good?

2 MS. MABILLE (interpretation): Excuse me, your Honour, but I was  
3 concentrating on what the witness was saying and I didn't really have a  
4 chance to look at the transcript. I was interested in taking my personal  
5 notes and getting ready personally so.

6 Excuse me. The team seems split over this. I asked them, and  
7 opinions are not so clear on our side, I'm afraid.

8 PRESIDING JUDGE FULFORD: I'm sorry to hear there are divisions  
9 in the ranks of the Defence, Maitre Mabilille, but perhaps Mr. Biju-Duval  
10 and Ms. Buteau can sort out of their differences over lunch.  
11 I think it would be useful to see whether we could establish  
12 whether or not this was a successful morning, because certainly as it  
13 seemed from the Bench there appeared to be very -- there appeared to be  
14 very few difficulties with the transcript. And if we can establish  
15 whatever is the alchemy that seems to work, then we must try to keep that  
16 in place, as it were, throughout the proceedings. I have a personal  
17 suspicion that the speed which we've been going at has been near perfect  
18 which may have contributed substantially, but we'll see. Good.

19 Thank you all very much. We'll sit again at 2.45.

20 (Luncheon recess taken at 12.57 p.m.)

21 (On resuming at 2.47 p.m.)

22 COURT USHER: All rise. Please be seated.

23 PRESIDING JUDGE FULFORD: Witness, please.

24 (The witness takes the stand)

25 PRESIDING JUDGE FULFORD: Good afternoon, sir.

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1 Yes, Ms. Solano.

2 MS. SOLANO: Thank you, Your Honours. Good afternoon.

3 Q. Good afternoon, sir.

4 A. Good afternoon.

5 Q. I'd like to shortly revisit some of the issues we touched on  
6 this morning. My first question is, whether before you joined SOS Grand  
7 Lacs you already knew of this organisation's existence and work?

8 A. No, not at all.

9 Q. And could you tell us briefly how you obtained this position with  
10 the NGO?

11 A. Well, at the time, at the time when the NGO was supposed to start  
12 operating in Bunia, as I said previously, I only arrived a few months  
13 after it had started operating. I was still teaching then, and the NGO  
14 needed people to work in the field, people who were familiar with Bunia;  
15 and more than anything else, who would be a representative of the  
16 community, because the two ethnic communities, the Hema and the Lendu,  
17 were in a conflict. So I think they were in contact with a  
18 representative of my community, the spokesperson for the Lendu community,  
19 and he is the person who contacted me and said, "Might you be interested  
20 in working with an NGO which specialises in human rights called SOS Grand  
21 Lacs?" So I said I agreed, and I was introduced to the bureau of the  
22 organisation, and that is how things happened.

23 Q. Thank you. I would like to ask you a question of the other  
24 persons who worked with you.

25 MS. SOLANO: But, your Honours, I would like to ask for your

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1 authorisation to ask this question in private session, because I am  
2 hoping to elicit names.

3 PRESIDING JUDGE FULFORD: So this is names of other NGOs; is that  
4 right?

5 MS. SOLANO: No, Mr. President. The names of the witness's  
6 colleagues within the NGO at the time.

7 PRESIDING JUDGE FULFORD: Sorry. That's what I meant. I was  
8 using an inelegant shorthand, Ms. Solano. My fault.

9 Yes, certainly, because I assume you would say that their consent  
10 has not been sought in relation to their names being revealed and that  
11 there is a potential for them to be at risk if -- if their identities are  
12 discussed in a public forum; is that right?

13 MS. SOLANO: That's exactly right, Mr. President.

14 PRESIDING JUDGE FULFORD: Good. I think we should only need to  
15 go into private session for a very short period of time, shouldn't we?

16 MS. SOLANO: Yes, for perhaps only one question.

17 PRESIDING JUDGE FULFORD: Certainly. Well, so as to reassure the  
18 members of the public gallery, the sound is about to be turned off, but  
19 it will not be turned off for long.

20 Private session, please.

21 (Private session at 2.52 p.m.)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

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1 (Expunged)  
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19 (Expunged)  
20 (Expunged)

21 (Open session at 2.55 p.m.)

22 COURT OFFICER (interpretation): Open session.

23 PRESIDING JUDGE FULFORD: (Previous translation continues) ...

24 MS. SOLANO:

25 Q. Mr. Ngabu, I understand from what you said this morning that you

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1        were mainly meeting with Hema families. Was it ever an issue that you  
2        were not Hema, that you were Lendu?

3            A. Well, as of the moment I signed my contract with SOS Grand Lacs,  
4        there was no question of our ethnic groups being revealed, the names of  
5        our tribes be revealed to the families of the children, and that's why  
6        nobody got to know that, unless some of the children had seen me before  
7        in a different situation, which might have revealed my ethnic group, but  
8        aside from that, aside from my superiors and my colleagues in the field,  
9        none of the children knew I was Lendu, certainly not.

10          Q. Thank you. This morning you mentioned the existence of data  
11        sheets, and you said that the ages of the children were recorded on those  
12        data sheets. Do you remember speaking about that this morning?

13          A. Yes. I was asked how -- how you could tell the age of the  
14        children.

15          Q. I have a number of questions to put to you on the data sheets.  
16        Could you describe them? Was there one global  
17        data sheet for the entire group or were there individual data sheets?

18          A. You know, our work entailed keeping up and monitoring things.  
19        When we went into the field, we were in teams of two or three people, and  
20        the data we would compile, we would bring back to the office, and then our  
21        superior, the chief, would centralise the data and classify the data for  
22        each child, and then take further decisions that we were supposed to  
23        implement. We knew the children, and we were only responsible for collecting  
24        the data and compiling information about the state in which we would find  
25        them. That was our responsibility. But then knowing where every



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1 children's file was classified, we didn't know that at all. We just knew  
2 that everybody -- every child had a file.

3 Q. You made reference this morning to there having been two girls  
4 in the group of 134 children who came back from Uganda. I would like to  
5 ask you whether you remember any particulars of the cases of these two  
6 girls, and in particular if you remember their ages?

7 A. No, not at all, because there was only one of the two whom I saw,  
8 because she came to the office. She used to come to the office when I  
9 was hired, so she came on three or four occasions and after that I had  
10 no further contact with her. I don't know where she had gone; I just  
11 supposed she reintegrated her community. But the other one I heard  
12 about, because I was told that there were two girls that we brought back.  
13 I can't give you any details on that matter.

14 Q. Are you able to estimate the age of the one girl you did see?

15 A. She seemed to be around 13 or 14.

16 Q. Thank you.

17 MS. SOLANO: Mr. President, I'm going to repeat the question,  
18 because there's some discrepancy in the English and French transcripts.  
19 I think the last word that the witness said was interpreted in different  
20 ways and it's quite important.

21 PRESIDING JUDGE FULFORD: You're quite right. There's an  
22 additional age in the French one, in the French transcript than there is  
23 in the English. So it's probably simplest to ask the witness to give the  
24 answer again. It is -- could you repeat what you've just said is your  
25 estimate of the age

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1 of the one girl that you did see?

2 THE WITNESS (interpretation): I said between 12 and 15.

3 PRESIDING JUDGE FULFORD: Right. That doesn't, in fact, match  
4 either of the transcripts with the earlier answer, but, right, 12 to 15.  
5 Thank you very much, sir. All right.

6 Yes, Ms. Solano.

7 MS. SOLANO:

8 Q. Sir, you -- you said this morning when you were speaking about children  
9 who had been sent for training, that - and I'm going to quote what you said  
10 - "That was in itself a crime." That's your quote. What I want to ask  
11 you is, whether in your experience, in the context of Bunia and its  
12 surroundings at the time that you worked for the NGO, was it generally  
13 known that the training of -- the military training of children was a  
14 crime? Was it at least known that there was something possibly wrong  
15 with that practice?

16 A. You know the national legislation forbids the enlisting of  
17 children. The minimum age for recruiting people in the armed forces is  
18 specified. I think the political or military authorities knew that.

19 Q. Just before we broke for lunch, you mentioned threats that were  
20 made against a number of people and organisations, and in my next few  
21 questions I want to touch on that. And in the first place, I want to ask  
22 you whether your NGO received any threats?

23 A. The NGO, as such, receiving open threats, no. But even if we  
24 demobilise or work in the framework of demobilisation and reinsertion of  
25 child soldiers, there was a humanitarian aspect to our activity, which

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1        meant that we were useful for something. We met the needs of some  
2        families. No matter how important that was or not, may be minimal, but  
3        that might have put us to the side or put us in a marginal position. But  
4        direct threats as were proffered against the person in charge of UNOCHA or  
5        the priest, the father I mentioned, before that, no; but we felt some  
6        hostility from the families, who convinced that  
7        their children belonged in the army and not at home.

8            Q.    Could you provide the Court with some details about the nature  
9        and the origin of the threats that the white fathers and OCHA received,  
10       please?

11          A.    I cannot give very convincing details, because we only  
12       experienced the fact that the father, the priest, and the person in  
13       charge of this particular branch of the United Nations be declared  
14       persona non grata. We suppose that they might have published things or  
15       declared things or sent out press releases on the situation of the UPC,  
16       and this might not have been or might not have been well taken by UPC.

17          Q.    How did you come to learn of the existence of these threats?

18          A.    For instance, regarding the gentleman who was in charge of OCHA,  
19       well, in the -- since he was the coordinator of the humanitarian  
20       activities in Bunia and we were a humanitarian organisation, it was  
21       normal that we should be aware of such things. And certain information  
22       was -- well, he was declared persona non grata because of the information  
23       he had released.

24                In the case of the priest, the Catholic priest, the whole city  
25       was aware of this because rumours circulate very quickly. And soon after

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1       that, he left.

2       Q.    Thank you.  You made reference this morning to the fact that -- and  
3       again, I'm going to quote something that you said, that:  "It was  
4       difficult for the mission to continue round about November 2002."  I want  
5       to try to understand what you meant by that.  Do you recall saying that  
6       this morning?

7       A.    Yes.  Yes, of course.  In fact, when I said that, I was speaking  
8       in relation to the fact, first of all, that we had already at that time  
9       lost many of the children that we were supposed to be looking after.  And  
10      the general climate was one of insecurity and went against humanitarian  
11      work.  We were not the only humanitarian organisation to stop working.  
12      Many others were unable to continue with their work as well in peace and  
13      quiet.

14      Q.    What were the causes of this general climate of insecurity?

15      A.    Well, you know, the UPC's regime in Bunia was characterized by  
16      general terror tactics.  People, particularly as regards the Lendu  
17      people, well, they couldn't travel freely through the city because we  
18      were victims of abduction and sometimes direct physical aggression.

19             That continued, and it even breached unimaginable proportions  
20      against other communities, too.

21      Q.    Before the UPC came to power in Bunia, were there different  
22      ethnic communities that lived in the town?

23      A.    Yes.  Bunia -- well, Bunia included nearly -- representations  
24      from all the regions of the countries in ethnic terms.  Nearly all the  
25      communities were there represented at Bunia.  First of all, the native

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1 people, they were the majority. And then the other ones that came from  
2 the other regions. There we are.

3 Q. You made reference this morning to the fact that at some point in  
4 time you, yourself, moved from Mudzipela to Bankoko. Can you explain at  
5 what point in time it was that you moved and what the reasons for that  
6 move were?

7 A. Yes. Well, as regards my family, well, I left Mudzipela quite  
8 early on, because as soon as I got the job, I thought that it would be  
9 better for me to live closer to the city. And it was easier for me to  
10 get from Bankoko to my place of work.

11 Furthermore, many people were beginning to leave, evacuate the  
12 neighbourhood of Mudzipela, because after the events that took place  
13 in January 2001 when the Lendu community was victim of generalised  
14 massacres, many Lendus could no longer remain in Mudzipela and began  
15 leaving. And that is how later on my family joined me where I had gone,  
16 close to Bankoko, because the situation was continuing to deteriorate  
17 and Mudzipela had more and more Hema inhabitants, and it was very  
18 difficult to remain in this very insecure situation.

19 Q. I'm sorry this question is obvious, but for the sake of us who  
20 are not fully familiar with it, is it correct that Mudzipela and Bankoko  
21 are both neighbourhoods in Bunia?

22 A. Mudzipela, Bankoko, well, they are neighbourhoods of Bunia.

23 Q. Thank you. How would you describe the situation or the living  
24 conditions for the Lendu community in Bunia once the UPC came to power  
25 there?

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1           A.   Well, in fact, as I just said earlier on, as soon as UPC took  
2   over power in Bunia, well, it was first against the Lendus that the UPC  
3   forces began to take action against. And for us as Lendus, it was very,  
4   very difficult to travel, to move about the city. Either you might be  
5   abducted, and a lot of people were, and today still no trace of them has  
6   been found. Or else you, yourselves, might be bothered or harassed. So we  
7   were not free to come and go as we wished.

8           Q.   Did this situation, this security situation affect you  
9   personally or your family?

10          A.   Yes, of course. Yes, it also affected me personally,  
11   particularly in view of the fact that I, myself, was victim of an  
12   abduction. And thanks be to God I was able to overcome that and I'm  
13   still here today before you, unlike many others who we -- whose names  
14   shall never be mentioned again.

15          Q.   Who were you abducted by?

16          A.   Well, the story of my abduction begins -- well, it goes back to  
17   the 29th of October, 2002. Let's say that these were -- I don't know  
18   whether we can use the word "members of the intelligence of the security  
19   services" -- I don't know -- of the UPC, of course. And they were following  
20   us. We were followed, trailed, after we came back from a meeting with a  
21   number of representatives of MONUC in Bunia. They had -- who had invited  
22   us over to have a discussion on the possibility of opening, let's say,  
23   the channels for water, water supplies. The water of certain  
24   neighbourhoods in Bunia, Mudzipela, for instance, and Lembabo, comes from  
25   Lendu villages, villages that were under the control of the Lendus.

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1 Ngongo is where the spring that feeds that part of Bunia is located,  
2 comprising Mudzipela and Bazi Babo neighbours (phoen). Ngongo, and its  
3 spring are located in an area that was under the control, at least to some  
4 extent, of the Lendus on that side. But Ngongo itself is a Bira village;  
5 and on the city side, in the Lumumba neighbourhood, who -- where Sukisa is,  
6 what they call la cite in Bunia, now that got its water from Zumbe, the  
7 Zumbe spring which was under the water authority; whereas, the Bunia  
8 parish, Catholic parish, managed the Ngongo spring. Now, for some time  
9 because of repeated attacks conducted by UPC against the Lendu villages,  
10 and because in the interior they realized  
11 that all the Lendus that had remained in Bunia were thought to have been  
12 exterminated, well, the Lendus in the hills thought that it would be  
13 appropriate to stop the water supply from getting into Bunia where the  
14 UPC was in control. And the consequence of this situation was that in  
15 Bunia there was an outbreak of disease, of which cholera.  
16 And because of that situation, MONUC, the UN mission in  
17 DRC, wanted to negotiate with a number of members of the Lendu community  
18 to try to restore water supplies so that Bunia was, once again -- well,  
19 once again, got drinking water.  
20 Now, because already at that time I had some contacts with some  
21 members of MONUC, particularly in the framework of the abductions or  
22 people or families that had suffered this type of attack, well, we and a  
23 number of other -- myself and a number of other members of my community,  
24 every time such a case occurred, well, we would generally point this out  
25 to the MONUC representative, and on occasions to the representative or

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1 commander of UPDF, the Ugandan Army that at the time supported the UPC.

2 And in that overall climate, very few people were saved, and most of the  
3 time we never heard of them again.

4 So going to MONUC to do all this, it was on that day, because I  
5 was asked to come with Lendu dignitaries who could easily convince their  
6 own people in the hills to restore the water supply. So I brought them  
7 with me over there, and we made a number of decisions. We were going to  
8 form a delegation, for instance, to send them -- to send it out to see  
9 whether we could help to get through the UPC roadblocks, the goal being  
10 to convince them of the harm that this was  
11 doing in Bunia, and, if possible, convince them to restore the water  
12 supply.

13 Now, when we were coming back from that meeting, we were trailed  
14 and chased by armed civilians. They belonged to UPC, of course, and they  
15 were on a motorbike -- several motorbikes, in fact -- and most of the Lendus  
16 at the time had taken refuge in the premises of the theological camp, the  
17 ISTB. It is a camp of Protestant, I believe, missionaries. So many  
18 people took refuge there. And since we were being chased, they knew we  
19 would be fleeing in that direction. And as a result, that particular place  
20 was encircled by the intelligence services. So we fled in that direction  
21 as planned. And when I analysed the situation, I realized that seeing  
22 the way in which we were being chased, they might be able to search the  
23 houses and actually catch up with us. I thought I could run faster than  
24 those older than me and perhaps immediately go to Bankoko where I lived;  
25 but unfortunately, when I crossed the camp, I saw that the troops were



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1 already in position on the other side. And I had to go into the STB  
2 premises, and I hid. I hid in a house. I found a woman there. She was  
3 grinding the cassava, and she didn't -- because of the noise she was  
4 making, she didn't even realise what was going on. And I quietly got into  
5 her house, into -- first into the living-room and then  
6 into the bedroom, her bedroom.  
7 I hope that explains things. And then, unfortunately, the militiamen,  
8 well, they knew where I'd gone, and -- and because they analysed the  
9 way in which I moved and fled, they got to the front door. The woman  
10 said, "You're hiding somebody. Get him out of here, because we'll shoot  
11 you down if you don't." And from my hiding place, well, I thought I was  
12 going to die. Now, she didn't realise I'd come in at all. So finally,  
13 she denied this. They went into the living-room. They didn't see anybody.  
14 But because they were continuing to threaten the woman, I decided to come  
15 out and that's why I surrendered to them. And they, of course, covered  
16 me with blows and hit me with the butts of their guns, took me with them on  
17 the motorbike. Somebody driving with a gun, somebody behind with a gun.  
18 We were three on the motorbike, and I found myself somewhere in the region  
19 of the official primary school, the EPO school. And that was where one  
20 of the UPC commanders was. It was Bagonza.  
21 Once we got there, well, my clothes were coming off left, right  
22 and centre, and I don't know what was happening. And I didn't know who  
23 was hitting me. And then I found myself virtually naked in something like a  
24 well, a pit full of filth. And I was still being beaten up and people  
25 were even throwing stones at me. There was only one

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1 possibility open to me,  
2 which was to protect my head with my hands, but my hands were not enough  
3 because they were being beaten as well. After some time, one of the leaders  
4 turned up there and asked for my identity. I told him who I was, I was a  
5 student, and I said that I worked for a humanitarian organisation. Maybe  
6 he found this cause for concern, I don't really know, but he quickly ordered  
7 them to stop hitting me. And it was said that the Commander-In-Chief would  
8 investigate my case and he placed some of the child  
9 soldiers there to guard me.

10 Q. Thank you. Perhaps we can pause there for some questions.

11 Did you receive an explanation as to the reasons why you were arrested?

11 A. Not at all. It was them. They were the ones who were asking me  
12 why I was at the MONUC with a delegation of Lendu dignitaries. They were  
13 suspicious of our presence there at the MONUC. Maybe they thought, I  
14 don't know, that MONUC would adopt a position against what was happening  
15 in Bunia. I don't know.

16 Q. You've just said that you were asked why you had been present at  
17 MONUC with the Lendu delegation, and you also said that you were asked  
18 your identity.

19 Were you asked anything else? Did any form of a longer  
20 conversation take place while you were detained?

21 A. Well, that night -- well, let me say the events were such that I  
22 was in that pit from about 1600 hours until nightfall.

24 I told them what my identity was. I gave my ID. And  
25 unfortunately I'd been beaten already, but it was then that they said

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1 that nobody should touch me, after the blows I had unfortunately received,  
2 until the commander could decide about my case.

3 So, it was only the next morning that I was summoned to go and see  
4 Commander Bagonza.

5 Q. Did you, in fact, appear before Commander Bagonza?

6 A. Yes, I did. After that very long night I spent there, when  
7 several times there were military vehicles from the UPC, operational  
8 vehicles, in fact, they came at least twice. They were looking to see if  
9 there were any Lendu prisoners that they would have taken aside and  
10 killed. But in fact, thanks to the two child soldiers who had been  
11 posted there -- anyhow, they were willing to shoot against anyone who  
12 wanted to try and take me away. So that's how it came that, fortunately  
13 the next day I was called to Commander Bagonza very early in the morning,  
14 around about 6.00 or before.

15 Q. I will come back and ask you about those two child soldiers in a  
16 moment, but I would like you to tell us, please, how your conversation  
17 with Commander Bagonza developed.

18 A. Right. Well, it was pretty tough going. There was no beating around  
19 the bush. And he said, "You, Lendu, what do you want? You want to make a  
20 deal with the MONUC to chase us out of the Ituri, and you think we  
21 don't know what you're up with the MONUC? What are you after?  
22 You've killed Hema. That's not enough for you?"

23 I kept my cool, and I told him what we went to the MONUC for. I  
24 don't know whether he believed me or not, but he gave the order for me to  
25 be taken back to the pit again.

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1 Q. You've mentioned to -- having been guarded by two kadogo. Can  
2 you say to the Court what ages these kadogo were?

3 A. They were round about 10, 11, or 12. No more than that. But around  
4 the premises there were other kadogos, those ones who were aged 10 to 12.

5 Q. The other kadogos present on the premises, how old were they?

6 A. When you talk about kadogos, it's generally under 18s. So going  
7 down from 18 right down to the lower end of the scale. There were older  
8 soldiers, and there were also child soldiers.

9 Q. You've said that the two kadogo who were guarding you, if I've  
10 understood you correctly, you've said that they put up some resistance  
11 when the other militia came in search of Lendu prisoners. What I want to  
12 know is in your view, in your knowledge, why were these two kadogo  
13 prepared to put up resistance on your behalf, for your protection?

14 A. First of all, they received an order. They were told to guard  
15 that individual and not let anyone touch him. That was the first thing.  
16 But I don't know whether they maybe recognised me. I didn't recognise  
17 them as being some of the children we were helping. From the time I  
18 arrived, there were people leaving. It's easier for children to remember  
19 the face of an elder, and especially somebody occupying a supervisory  
20 role. That's how it is - sometimes teachers do not recognise children or  
21 former pupils who greet them in the street and they wonder who they are.

22 Anyhow, I didn't know them. I didn't recognise them. By virtue of  
23 the state they are in, they become unrecognisable. They are often made to  
24 wear long clothing and their faces are not a pretty sight.

25 And you can see their suffering.

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1 It's difficult to recognise them. Some have had their heads shaved.

2 Some have changed their hairstyle.

3 Q. How were these two kadogo dressed, and were they armed or not?

4 A. Yes, they were armed. Both were armed. One was wearing military  
5 attire, but the other wasn't. He was wearing -- it was almost civilian  
6 clothing he was wearing. So one wasn't completely in military attire.  
7 He had military trousers, but his shirt was just a dark coloured one, and  
8 the other one was wearing civilian clothes, but they were well armed.

9 Q. Can you clarify where exactly on the premises you were while  
10 these two kadogo were guarding you?

11 A. Well, the houses in the residential part of the governor's  
12 premises of the district are built in such a way that you have the large  
13 house; and behind it you have, for instance, hangars that are used as a  
14 garage or in some cases you might have an open space. Anyhow, it was  
15 behind that house, close to the road that goes from the Bunia court to  
16 Dele, next to what we call the EPO grounds, the grounds of the EPO  
17 school.

18 So there was a house there. I don't know whether it still  
19 exists, but it was one of the official houses where usually the official  
20 representatives lived.

21 I was in a pit in the garage area.

22 Q. You've said a pit. Did this pit have a roof or was it uncovered?

23 A. No. It was uncovered.

24 Q. Can you describe this pit in terms of its size?

25 A. It was -- well, the depth -- it wasn't very deep. Around

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1       about -- well, it was under 3 metres -- say 2 and a half metres. And as  
2       for the width, at most I would say a metre and a half. And it was in the  
3       rainy season as well, which meant there was a lot of water, a lot of dirty  
4       water that was in it. And I came upon other people in that pit as well.

5       Q.   How many people were in the pit while you were there? And please  
6       also explain, if you can, who they were and why, to your knowledge, they  
7       were in the pit.

8       A.   If I'm not mistaken, there were around about six or seven people.  
9       They were Hemas. Very often you can recognise them. You have the  
10      northern Hema and the southern Hema. The majority of those people were  
11      southern Hema. And as for the reason why they were there, it's because  
12      Commander Bagonza had taken their cows, the cows they were breeding, and  
13      they had shown that they were unhappy about this, so he put them in this  
14      pit. He couldn't, of course, slit their throats, but it was quite a  
15      punishment for having ignored the orders given by Commander Bagonza.

16      Q.   And how did you come to learn that this was the reason why  
17      these people were in the pit?

18      A.   You know, when you're in such a situation, you've not got  
19      anything more to lose, particularly for me involved in what I was doing,  
20      helping out people who had been abducted. And results showed that  
21      there's no guarantee that people would actually come out okay at the end  
22      of the day.

23      So I didn't really expect to get out of

24      that situation. And as I

25      say, in such a situation, sometimes you're no longer afraid, and it's easy

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1 to communicate with other people because you know what the sentence is  
2 that hangs over you.

3 So I spoke with them. And I asked, "Are you Hema? How come  
4 you're here?" And they were in the same sort of state that I was in, so  
5 we started to share our common suffering.

6 Q. Thank you, Mr. Ngabu, for explaining all of this to us.

7 Can you tell the Court what happened after you spoke with  
8 Commander Bagonza and after you returned to the pit? How did it come to  
9 be that you were out of there eventually?

10 A. Well, as I was saying earlier, the first thing that saved me,  
11 that saved my life was the presence of those kadogo. Twice over, when  
12 there were people who arrived to execute Lendu prisoners -- and when they  
13 came, they were threatening. You know, when you've given an order to a  
14 kadogo, what is important for him is that his superior is going to be  
15 proud of him. So they loaded their weapons and aimed them at those  
16 people on two occasions and said, "We will shoot if you come any closer."  
17 And those other  
18 people were armed as well, but they were scared, I think, because they  
19 know that kadogos don't joke, and they left. So that was the first thing  
20 that saved me.

21 The second thing was probably because there were a lot of us  
22 being chased, and we'd come from the MONUC. And the other worthies went  
23 back to the MONUC and passed on the message. So perhaps the MONUC was  
24 doing something, in touch with the UPC. And also was the fact that I  
25 worked for SOS Grand Lacs, and there's one of my brother's who quickly

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1 ran off to the organisation where I worked to tell them. I think that  
2 that's probably what happened.

3 And after I was taken back to that hole, sometime afterwards I  
4 was taken out of it. And this time it was one of my colleagues from the  
5 other ethnic group, I've spoken to you about him, he was the one who came  
6 along. He called out my name, and he issued an order to the people who  
7 were there to tell them to pull me out of the hole. And he asked where  
8 my clothing was, and I said I didn't know. "You'll have to ask the  
9 soldiers." So he asked them to give me my clothes back, but  
10 unfortunately there were no clothes left, because the people who took them  
11 had gone. Perhaps they had gone out on operations. And I was given a T-  
12 shirt of a 10-year-old child. That's what I was given to wear. And all I  
13 had was my underpants and nothing to put on top of them.

14 There were two motorbikes with him. I would imagine that before  
15 he came to that hole that he'd spoken to Bagonza. And anyhow, we went  
16 back. We were back before Bagonza again. He said he expressed his  
17 regret that he'd arrested one of this person's friends. And in fact, he  
18 was close to the military hierarchy of the UPC at the time. So he  
19 apologised. And then we went off with my former colleague to the  
20 residence of the Minister of Defence of the UPC. And that's where my  
21 former colleague now works.

22 Q. Thank you, Mr. Ngabu. You've mentioned that -- you've said that  
23 you went to the residence of the Minister of Defence of the UPC. Can you  
24 tell us who that person was at the time?

25 A. At that time, it was Mr. Kahwa. People often called him Chef



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1 Kahwa. Just Kahwa.

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 MS. SOLANO: Mr. President, may I consult my colleagues briefly?

25 PRESIDING JUDGE FULFORD: Please do.

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1 (Prosecution counsel confer)

2 MS. SOLANO: Mr. President, yes. In light of the fact that there  
3 were not many people in that situation, we'd be grateful for a redaction.

4 PRESIDING JUDGE FULFORD: Well, I want to thank the Court Officer  
5 for being alert and noticing that.

6 Could Ms. Samson send an e-mail indicating which lines should be  
7 removed? Thank you.

8 Please continue, Ms. Solano.

9 MS. SOLANO: Mr. President, I think that perhaps, for the sake of  
10 the record, if we might briefly go into private session so that the  
11 witness can confirm the name of the particular colleague he's been  
12 talking about so that there's no doubt.

13 PRESIDING JUDGE FULFORD: Absolutely. Private session, please.

14 (Private session at 3.55 p.m.)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

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25 (Open session at 3.56 p.m.)

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1 COURT OFFICER: Open session.

2 PRESIDING JUDGE FULFORD: Yes.

3 MS. SOLANO: Thank you. Might I have another moment of your  
4 indulgence?

5 PRESIDING JUDGE FULFORD: Of course.

6 MS. SOLANO: Thank you, Mr. President.

7 (Prosecution counsel confer)

8 MS. SOLANO: Thank you, Your Honours, for your indulgence.

9 PRESIDING JUDGE FULFORD: Certainly, Ms. Solano. Please  
10 continue.

11 MS. SOLANO:

12 Q. Mr. Ngabu, a while ago while we were talking about your detention  
13 in -- by the UPC, you said that once you were brought in and you  
14 identified yourself, you were told that the Commander-In-Chief would  
15 investigate your case. Do you recall saying that?

16 A. Could you repeat that question, please?

17 Q. Certainly.

18 A. If you don't mind repeating, please.

19 Q. When you told us about your arrest, you said that when you were  
20 first brought to the house in which you were detained, the house that was  
21 commanded over by Commander Bagonza, you were asked certain questions.  
22 You were asked for your identity. And that once you identified yourself,  
23 you were told that the Commander-In-Chief would investigate your case,  
24 and I was hoping you could clarify who you meant by the  
25 "Commander-In-Chief."

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1           A.    I would like to give you some more details, because what I said,  
2           more rather, is that when I was brought in to what I might call Bagonza's  
3           headquarters, I wasn't brought directly to him; but I hope that those who  
4           trailed us to -- all the way to MONUC, did it at his instigation and had  
5           by then reported to him. So after I had been beaten up, one of Bagonza's  
6           men who'd been -- who'd seen it had probably informed him about the new  
7           prisoner. So when I gave my name, they asked for me to be kept so that  
8           Bagonza himself could decide what to do with me.

9           Q.    Thank you.

10           PRESIDING JUDGE FULFORD: Pause, Ms. Solano. Your question,  
11           Ms. Solano, involved a reference to the Commander-In-Chief. Which page,  
12           please, do we find that on, because I think that prompted Maitre Mabilie  
13           to rise to her feet.

14           MS. SOLANO: Certainly, your Honour. The reference is page 73,  
15           line 20 of the English transcript in LiveNote.

16           PRESIDING JUDGE FULFORD: Well, you're absolutely right. The English  
17           transcript reads: "And it was said that the Commander-In-Chief would  
18           investigate my case." Has someone been able to verify whether that's  
19           confirmed in the French transcript? Can somebody speedily do that, please?

20           MS. SOLANO: We are looking into it, Mr. President.

21           PRESIDING JUDGE FULFORD: Yes. I think the point's gone,  
22           Ms. Solano, so please continue. Thank you. Yes, it's all right,  
23           Ms. Solano. You can continue.

24           MS. SOLANO: Thank you, Mr. President. I think one final  
25           question for the witness.

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1                   PRESIDING JUDGE FULFORD: Certainly.

2                   MS. SOLANO: And this relates to something that the witness said  
3 at page 66, line 6 of the English transcript.

4                   PRESIDING JUDGE FULFORD: All right. Thank you.

5                   MS. SOLANO:

6           Q. And Mr. Ngabu, you said earlier today that the minimum age for  
7 recruiting people in the armed forces was -- is specified in -- in the  
8 law, in the conventions, and that you think the political or military  
9 authorities knew that.

10          A. Yes, I think so.

11          Q. (Overlapping speakers) -- this. Can you explain to the court  
12 what leads you to think  
13 that those authorities knew what the minimum age for recruitment was?

14          A. First, as regards people who brought those children to  
15 Kyankwanzi, I think they were educated politicians, academics,  
16 so they would know the laws of the country.

17                  As regards UPC, the number one person of UPC, to my knowledge,  
18 holds a degree in political science from Kisangani University, if I'm  
19 right. In that faculty, I suppose they also have law classes.

20          Q. To your knowledge, were the leaders of the armed groups informed  
21 by persons or organisations of the age for recruitment?

22          A. You know, if it were only for the presence of SOS Grand Lacs in  
23 Ituri, there are -- and the follow-up activities for each child,  
24 apart from that there were also seminars organised in schools in order to  
25 raise awareness about children's rights according to the rules of

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1 international law concerning children's rights. So we've done that.

2 And we -- there were also radio broadcasts.

3 When UPC took over in Bunia, I think we had already carried out  
4 many sensitisation actions among the Ituri population.

5 Q. I believe you also mentioned the radio, although it appears not  
6 to be captured in the English transcript. Sorry, it is there.

7 And you've mentioned radio broadcasts. What radio station or  
8 channel were the broadcasts that served to sensiblise the public about  
9 the law or the rules governing the use of child soldiers would -- was  
10 used? What was the channel or the radio station that was used for this  
11 purpose, to your knowledge?

12 A. Well, the first channel we used, well, that the organisation used, was  
13 Radio Candip. And to do so, we had to sign an agreement with the people in  
14 charge of the radio station. After that, we thought that in order to  
15 raise more awareness we had to use other radio channels. So we also had  
16 a few broadcasts on Canal Revelation, and we also had -- we also  
17 broadcast on RTK, Radio Tangazeni Kristu.

18 Q. Can you explain to the court generally what the areas of coverage  
19 of these different radio stations are?

20 A. First of all, Radio Candip has a wider coverage or covers a wider  
21 territory, because if there is no scrambling, if there are no problems of  
22 interference, sometimes people in Lubumba can actually hear Radio Candip. So  
23 Radio Candip could broadcast at the time, and I hope it's still the case  
24 today, over a very wide territory.

25 RTK and radio Canal Revelation had a smaller coverage.

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1 Q. And in terms of Bunia and Ituri, would these radio stations --  
2 could -- could one tune into these radio stations in Bunia throughout  
3 Ituri?

4 A. Well, at least in Bunia all three radio channels could be tuned  
5 into by anybody. Radio Canal Revelation and RTK covered Bunia and the  
6 immediate surroundings, but Radio Candip could be tuned into even at the  
7 far north of the country, up to Waza.

8 MS. SOLANO: Mr. President, I'm going on a little longer than I  
9 had announced. Is that okay?

10 PRESIDING JUDGE FULFORD: Of course, Ms. Solano.

11 MS. SOLANO: Thank you.

12 Q. And I apologise if this seems like a terribly obvious question,  
13 but can you explain to the Court what the importance of radio is in --  
14 in -- in Ituri, whether it's listened to by a small or large section of  
15 the population?

16 A. The broadcasting -- the broadcasting we did on the rights of  
17 children on the radio was very important, because it allowed us to  
18 prevent other cases of enlisting of children. In other words, we had a  
19 dual vision in the work we carried out. There was prevention on one hand  
20 and finding solutions, if we might call it as such, as a second.

21 Radio broadcasting was part of the first aspect of our work,  
22 which was to raise awareness among the people on children's rights. So  
23 the children themselves would be aware of their rights, and that adults  
24 would know those rights and respect them. So that's how we did things.

25 Q. At the time that you worked with the NGO, was radio a means of

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1 communication that people in general relied on?

2 A. Yes, of course. Yes, of course. You see, for example, all of  
3 these radio stations, the population would listen to communiqués. And in  
4 Ituri every family would have a radio. They would listen to communiques  
5 or news, and they could also listen to other elements of broadcasting.  
6 It all depended on the objective that every radio station had.

7 Q. Thank you. Perhaps one last area of questioning, Mr. Ngabu. The  
8 children who were part of the armed groups, I would like to know how were  
9 they provided for, financially speaking?

10 A. Supported by whom? Well, you mean the fact that they were supported by  
11 the armed groups?

12 Q. Yes.

13 A. By the armed groups you mean? Personally, I was never part of  
14 any armed group, so it's difficult for me to say how the armed groups  
15 were organised in order to support the children, but at least what I can  
16 say is that the children didn't seem to be doing well.

17 Q. To your knowledge, did the community, the civilian population,  
18 contribute in any way to meeting the needs of child soldiers in the UPC?

19 A. Actually, it used to be said in Bunia, and we all heard it, that  
20 the families would contribute. Especially the Hema family would  
21 contribute to the military training of their children. And maybe  
22 something that might illustrate that is not the case in which only the

23 (Expunged)

24 (Expunged)

25 (Expunged)



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1 (Expunged)

2 (Expunged). And when I asked him what was happening, what was going on,  
3 and he said, "Oh, don't worry, we are under threat here, because if we don't  
4 pay a meagre amount for the war effort, to support the UPC Army, then our  
5 wives are in danger here."

6 This is an example which goes to show that sometimes the people  
7 living in a community comprising Hema for the most part, were forced into  
8 contributing to the war effort.

9 Q. Do you know how your friend came to know this?

10 A. Well, he -- he stayed there. He carried on living there. As I  
11 told you in the beginning, it was mostly the Lendu who were under threat;  
12 but later on, it was also other ethnic groups. So the climate became  
13 really dangerous for anybody who wasn't a Hema. They might have been  
14 suspected of having contacts with the Lendu or any other activities that  
15 ran against the UPC's interests. So he personally told me that he was  
16 threatened, that his wife might be raped if he didn't pay his little  
17 contribution.

18 Q. Mr. Ngabu, I want to express the gratitude on behalf of the  
19 Prosecution for having answered all of our questions today.

20 MS. SOLANO: That's all, Mr. President, your Honours.

21 PRESIDING JUDGE FULFORD: Thank you, Ms. Solano.

22 Given that Mr. Mulamba has now no questions, as I understand it,  
23 Maitre Mabilie, I think it's now your turn.

24 Questioned by Ms. Mabilie:

25 Q. Good afternoon, Witness.

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1           A.     Good afternoon.

2           Q.     My name is Catherine Mabilie. I'm a lawyer, and I am part of the  
3     Defence team for Mr. Thomas Lubanga. And I am the one who today, and  
4     probably tomorrow as well, will ask you a certain number of questions.

5                 Both you and I need to be very careful about one thing, which is  
6     the following: Is that you speak French and I also speak French, so we  
7     might tend to go faster and faster when the people who translate what we  
8     say need a gap so that they can translate. So I will take my  
9     share of responsibility and try not to put one question to you after the  
10    other, but I hope we can both be very careful about this issue.

11                The first thing I am going to do is just to ask you whether you  
12    remember having met with the investigators of the Prosecutor's office in  
13    July and then again twice in September of 2005. Do you remember that  
14    correctly?

15          A.     Yes, very well.

16          Q.     You also remember that all of what you said was registered in the  
17    minutes of your statement?

18          A.     Yes. Yes, madam.

19          Q.     And you remember that at the end of the minutes there is a  
20    document calling -- called "Statement of the Witness," in which you said  
21    that whatever you said was true. I am going to give you this statement,  
22    which is a bit of a formal exercise, but this will allow you to confirm  
23    your signature at the beginning of your statement and at the end of your  
24    statement. Then during my cross-examination, I might have to ask you to  
25    refer or to turn to a paragraph or another of your statement, and it is

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1 also for this reason that I request that you have it before you.

2 MS. MABILLE (interpretation): I apologise, your Honour. I have  
3 hard copies, but only in French copies of the statement. Do you wish to  
4 have a copy or is that not necessary?

5 PRESIDING JUDGE FULFORD: We all have copies on the Bench,  
6 Maitre Mabilille, but thank you very much indeed for the offer. So don't  
7 worry. No, it's fine.

8 And, sir, I'm just going to pick up on what Maitre Mabilille said  
9 to you absolutely appropriately a little while ago, the need for a gap  
10 between questions and answers. If at any stage you see my hand go up in  
11 the air, that simply is meant to remind you just to pause for a moment  
12 before you continue. All right? So if you see my hand, the gesture  
13 simply means just wait for a moment to give the interpreters time to  
14 catch up. Good.

15 Please carry on, Maitre Mabilille.

16 THE WITNESS (interpretation): Well noted.

17 MS. MABILLE (interpretation): Yes.

18 COURT OFFICER (interpretation):

19 We need the number of the document.

20 MS. MABILLE (interpretation): I apologise. It's DRC-00126189.

21 COURT OFFICER (interpretation): The document will bear the  
22 reference number MFI-D-115. MFI-D-115.

23 MS. MABILLE (interpretation):

24 Q. (No interpretation)

25 A. (No interpretation)

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1 Q. Witness, I would like to ask you to kindly turn to the first page,  
2 at the bottom of the first page. Is that your signature?

3 A. Yes. Yes, I can see that.

4 Q. Is that your signature?

5 A. Yes, it is mine.

6 Q. Would you be kind enough to read through the document to see  
7 whether you initialled it at the bottom of each page?

8 A. Yes. Yes, I can see.

9 Q. Would you kindly turn to page 14, at which you can see the  
10 statement of the witness signed by you. Can you confirm that?

11 A. I confirm that.

12 Q. Thank you very much, Witness. Witness, I am going to ask you a  
13 first series of questions which bear on your work for the SOS Grand Lacs  
14 organisation. You said this morning that you started working with SOS  
15 Grand Lacs in September of 2001, and you also indicated this morning that  
16 you had undergone training for one month.

17 Could you specify what this training entailed?

18 A. Well, I would like to correct something. I said that I did a  
19 professional internship, which lasted one month; and what this internship  
20 entailed was some kind of preparation for the activities we were to carry  
21 out; i.e., how to come into contact with the children, how to understand  
22 the situation, how to gain access to the families, which message to pass  
23 on to the families, and more or less that was it. How to follow the  
24 children, monitor their reintegration into normal life. That was roughly  
25 what all of this entailed.

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1 Q. And this internship or training period, whatever you wish to call  
2 it, this you did with whom? Who trained you? Who were your trainers?

3 A. I'd rather call it an internship, because it was a practical  
4 training. There was no theoretical training or classes. It was a  
5 practical training in which you were told what you needed to do, and you  
6 were put into contact with the people you needed to work with and  
7 supervise. And the person dispensing this, well, this was the SOS Grand  
8 Lacs team from Goma. These were the hardcore, as it were, of the  
9 authorities in Kinshasa -- no, I'm sorry, Bunia. This was the team that  
10 was qualified to do this, and this is why UNICEF had, in fact, chosen  
11 this organisation to carry out this activity.

12 Q. And during the internship, for instance, did you deal with  
13 psychological aspects? Because this morning you mentioned psychologists  
14 who helped you for the work you did at SOS Grand Lacs, unless I  
15 misunderstood you.

16 A. Yes, indeed. As I said this morning, the activity in general was  
17 psychological and social monitoring of the children. But for the purely  
18 psychological aspects, there were psychologists who had been hired by the  
19 organisation. There were two of them, in fact, and they were helping us  
20 for those aspects.

21 Q. And earlier on you said to us, and I won't be quoting the names  
22 that you mentioned, that you spoke about four people who worked with you  
23 at SOS Grand Lacs in Bunia, and you said roughly four names that you  
24 remembered. Did that include any psychologists?

25 A. The team of psychologists worked separately from us. Those four

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1 I mentioned were people that we made up a team with to work in the field.  
2 There were two psychologists apart from that and they received people; and  
3 after we had completed our  
4 fieldwork, we would bring them back some information, and the authorities  
5 would call on those psychologists to bring the children to headquarters  
6 and deal with these cases. And sometimes I think they, too, went out into  
7 the field to supervise at least those who were in the interior.

8 Q. So your organisation in Bunia had a fairly large premises, did  
9 it? What type of premises did you have in Bunia?

10 A. We had a very large house that was converted into offices. This  
11 large house, I think it comprised approximately eight rooms, large rooms,  
12 and a shelter where we put the agricultural inputs, for instance. That's  
13 where we stored them. And we would generally bring the children into the  
14 inner courtyard. That's where they first entered, and that's where we  
15 began speaking with them.

16 Q. And in the group that worked in Bunia, were there any special --  
17 specialised tasks that each of you carried out, or did all four, five  
18 people fulfil the same duties?

19 A. Well, the duties were more or less the same. We were -- each of  
20 us was recruited on the basis of our own education and training before we  
21 got there. There were three graduates amongst us. I -- I had just  
22 gotten the end of secondary school diploma, and three of us had this  
23 post-secondary diploma and three had university graduate diplomas three  
24 years after secondary school. Apart from the psychologist, of course, who,  
25 of course, had graduated from the Kisangani University. That's what I

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1       learnt at the time.

2   Q. And was there anyone who was a little bit more in charge than the others?

3       A. Well, we who had been hired on the spot -- well, the one who was a  
4       little bit more in charge -- well, I don't think there was anyone like  
5       that, but there was a question of seniority. That could -- that did  
6       count. My friend, whose name I referred to while we were in closed  
7       session, joined the organisation before I did; and so it was normal that  
8       he should have adopted a number of habits before I did. So when we went  
9       out into the field and we had to draft a report, well, we would -- it was  
10      he who would submit the report.

11      Q. I have another question. Did -- is it right, did I properly  
12      understand you when you said that SOS Grand Lacs had its main offices in  
13      Goma and that you were, as it were, a branch of this Goma office? Is  
14      that right?

15      A. Yes, that's quite right. The headquarters remained and was  
16      established in Goma, and it was from Goma that we received funds and  
17      certain guidelines that we were supposed to implement.

18      Q. So you had daily contacts with the headquarters in Goma, did you,  
19      or was it -- was it true that you had some independence?

20      A. Well, the person who was in charge of the NGO most of the time  
21      was in Goma, but sometimes spent a little time with us. But most of the  
22      time he was in Goma, and we later learnt that he was hired by UNICEF.

23           PRESIDING JUDGE FULFORD: You gave a magnificent instruction at  
24      the beginning. You delivered it slowly. It was comprehensive. Both you  
25      and the witness then promptly forgot it and ignored it totally.

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1           The stenographers and the interpreters have been doing very well  
2   up until this moment, but I think we have just reached the point of  
3   collapse.

4           Can the two of you please not have a private, quick-fire dialogue  
5   with questions and answers immediately following each other? I'm afraid,  
6   although there is an amusing aspect to this, in fact it stores up untold  
7   problems for the future. So consider yourself chastised, Maitre Mabilille,  
8   and try and build in gaps, please.

9           MS. MABILILLE (interpretation):

10          Q.   How many people worked in Goma for the SOS Grand Lacs programme?  
11   Do you know what the number was?

12          A.   No, not at all, but there were people coming from Goma to our  
13   place and went back to and fro on several occasions.

14          Q.   What were the resources provided by SOS Grand Lacs for you to carry  
15   out your work in Bunia?

16          A.   Could you clarify what you mean by "resources"?

17          Q.   Of course. I was referring to office supplies. You mentioned  
18   those. I'm talking about supplies of -- or means of locomotion, any  
19   possible kits that you handed over to the children, perhaps clothes that  
20   you gave to the children. I used the word "resources" in a very broad  
21   sense.

22          A.   As I said earlier on, the organisation was funded by UNICEF, and  
23   all we -- all that we could do was based on the distribution that was  
24   done by the Goma headquarters. That conditioned what we were able to do.

25          The resources we used in our work, well, you referred to them.



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1 We had, of course, offices, first of all. We had a place where we could  
2 bring the children in and from where they left. It was easy for them in  
3 Bunia to come into our offices.

4 At a later stage, slightly later, we were given -- we were given  
5 the possibility to hire vehicles for several months. In the first stage,  
6 we hired them on a day-to-day basis, either motorbikes or other vehicles  
7 to go into the interior. And sometimes with the other humanitarian NGOs,  
8 particularly those involved in food in Bunia, well, we sometimes  
9 negotiated something in favour of these families or children. There were  
10 sometimes organisations that handed out food supplies or agricultural  
11 inputs. And UNICEF itself sent us a number of kits to hand them out to  
12 the children.

13 Q. Were there any facilities to provide accommodation to these  
14 children?

15 A. Accommodation was not usually an easy matter, because the -- the  
16 possibilities of the organisation in this respect were fairly limited;  
17 and as a result, we often called on, as it were, foster families. We  
18 tried to get hold of the families that were the closest to the child in  
19 the event that the biological family was not willing to take them on or  
20 had difficulties in reintegrating the children into those families.

21 Now, the offices, we could only accommodate some very extremely  
22 urgent cases, where there is an extreme need. For instance, very  
23 seriously ill children. By having them close to us, it was easier for us  
24 to take them to hospital and -- every morning, if that was possible.

25 Q. You told us that you would offer them vocational training or the

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1 possibility to go back to academic instruction --

2 A. No, schooling.

3 Q. Could you tell us in concrete terms how you went about doing your  
4 work in this respect?

5 A. Well, for those of them who decided in favour of vocational  
6 training, we would ask them what type of trade they would like to carry  
7 out in their lives, and then we would establish contact with professional  
8 workshops, vocational centres in Bunia for carpentry or masonry and other  
9 trades; and together with the authorities of those centres, we would try  
10 to find a way of providing proper training to those children. And  
11 thereafter, we would pay the monthly contributions to cover that training.

12 And for the children that were to go back to the normal school  
13 curriculum, we did almost the same thing. We contacted the schools  
14 depending on the level of achievement already reached by the child when  
15 he or she had left school. So we contacted those schools and then paid  
16 the dues that were owed.

17 Q. Mr. Witness, between the time you first set eyes on a child and  
18 discussed these matters with him and the time when you were able to  
19 rehabilitate him or reintegrate him into a training pathway or academic  
20 pathway, according to your own experience how long did this process take?

21 A. Well, that depends. First of all, as regards vocational  
22 training, the time constraint does not exist, unlike normal schooling,  
23 because with normal schooling you have to cover the pre-established  
24 curriculum, the state curriculum. The school year begins at such and  
25 such a day and ends at a given day. So those who chose to receive

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1 vocational training, who went into the trades, well, as soon as they  
2 agree to a given trade that they want to be trained in, then we would  
3 make the contacts within the appropriate environment. And that might  
4 last -- well, it really depends. Maybe a week, two weeks. And it really  
5 largely depends on the point in time when those centres are in a position  
6 to bring in those children. In any case, we were ready to fund that type  
7 of thing as soon as the centre was willing to take on the children.

8 Q. Let me be more specific with my question. When you saw the  
9 child -- a child for the first time, you have a discussion with him that  
10 will allow you to assess what he wants. Now, this first discussion with  
11 the child, does it in itself -- is it enough for you to find a solution  
12 or does it take you time to assess the actual needs and desires of the  
13 particular child?

14 A. Well, you know, it's not an immediate process, of course. You  
15 have to be well acquainted with the child. You have to have some sort of  
16 knowledge about his past and see what he -- actually he did in the past  
17 before he went into the Army. And it is once that is done that you can  
18 begin to explore his desires. But it was the organisation's task to also  
19 assess what the child had done before, asking him about his desires.  
20 So -- but each case was examined by the authorities. We would report  
21 back the various contacts that we had had with a child and the data, what  
22 he had studied, what he had done, what his experience in the past had  
23 been. And the authorities would examine all this and see what the best  
24 solution for that particular child would be.

25 For instance, lots of children would come along and say, "Well, I

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1       can't go back to school, so give me money so that I can start trading."

2       Now, that was automatically rejected, of course.

3               I hope this answers your question.

4               PRESIDING JUDGE FULFORD: Perhaps we could make that the final  
5       answer at this stage, Maitre Mabilie. Thank you very much.

6               Sir, thank you very much for your assistance this afternoon.

7       We're going to rise now for the day. For various administrative reasons  
8       which will assist the Bench, although we usually sit at 9.00 on a Friday,  
9       we're going to sit at 9.30. And there will be a slightly shorter day  
10      tomorrow as a result, but that is purely because of administrative  
11      arrangements that have got to be made within -- for the Judges tomorrow.  
12      There's something that we've got to do, first of all.

13              So we'll sit tomorrow at half past 9.00. And could the usher  
14      please assist the witness from the room.

15              COURT OFFICER: Just a little correction for the record. The  
16      document that has been presented earlier shall carry the number  
17      MFI-D-00116 and not 117. Thank you.

18              (The witness stands down)

19              PRESIDING JUDGE FULFORD: 9.30 tomorrow.

20              The hearing ends at 4.48 p.m.

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